

Compensation Court Act 1984 No 89

[1984-89]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Courts Legislation Miscellaneous Amendments Act 2002 No 99](#) (not commenced)
- **Note**
The Act is to be repealed on 1.1.2004 by the [Compensation Court Repeal Act 2002 No 23](#), sec 4 (1).

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Compensation Court Act 1984 No 89



New South Wales

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Compensation Court Act 1984 No 89



New South Wales

An Act to constitute the Compensation Court of New South Wales and to make provision with respect to its jurisdiction.

Part 1 Preliminary

1 Name of Act

This Act may be cited as the *Compensation Court Act 1984*.

2 Commencement

- (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 as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

a registrar means the registrar, the deputy registrar or an assistant registrar.

assistant registrar means an assistant registrar of the Court.

barrister means a person who is on the roll of barristers in the Supreme Court.

Chief Judge means the Chief Judge of the Court.

commissioner means a commissioner of the Court.

Court or **Compensation Court** means the Compensation Court of New South Wales constituted under this Act.

deputy registrar means the deputy registrar of the Court.

Judge means a Judge of the Court.

regulation means a regulation under this Act.

rules or **rules of Court** means the rules of the Court made under this Act.

solicitor means attorney, solicitor and proctor of the Supreme Court.

the registrar means the registrar of the Court.

Workers Compensation Acts means the [Workers Compensation Act 1987](#) and the [Workplace Injury Management and Workers Compensation Act 1998](#).

(2) A reference in this Act to:

- (a) a function includes a reference to a power, authority and duty, and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Part 2 Constitution of the Court

Division 1 Constitution

4 Constitution of the Court

There is hereby constituted a court of record to be known as the “Compensation Court of New South Wales”.

5 Seal of the Court

There shall be a seal of the Court, and any document required by or under this or any other Act or law to be sealed or stamped with the seal of the Court shall be so sealed or stamped.

6 Single Judge to constitute the Court

- (1) The functions of the Court shall, subject to the provisions of this Act, the Workers Compensation Acts or any other Act, be exercised by a single Judge, who shall constitute the Court.
- (2) Subsection (1) does not affect the provisions of this Act, the Workers Compensation Acts or any other Act or any rules concerning the hearing and disposal of proceedings and business before a commissioner or a registrar.

Division 2 Judges

7 Composition of the Court

The Court shall be composed of:

- (a) a Chief Judge appointed by the Governor, and

- (b) such other Judges as the Governor may from time to time appoint under section 8 (1).

8 Appointment and qualification of Judges

- (1) The Governor may, by commission under the public seal of the State, appoint any qualified person to be a Judge.
- (2) A person is qualified for appointment as a Judge if the person is under 70 years of age and:
 - (a) holds or has held a judicial office of this State or of the Commonwealth, another State or a Territory, or
 - (b) is a legal practitioner of at least 7 years' standing.
- (3) The [Oaths Act 1900](#) applies to and in respect of a Judge in the same way as it applies to and in respect of a Judge of the District Court.

9 Tenure etc

- (1)-(3) (Repealed)
- (4) The Chief Judge shall have the same rank, status and precedence as the Chief Judge of the District Court.
- (4A) The Chief Judge is also entitled to a like style and title as that to which a Judge of the Supreme Court (other than the Chief Justice and the President of the Court of Appeal) is entitled.
- (4B) The Chief Judge is entitled to the same remuneration as that to which a Judge of the Supreme Court (other than the Chief Justice and the President of the Court of Appeal) is entitled.
- (5) Except as provided in subsection (4) or (4B), each Judge shall have the same rank, status and precedence and the same remuneration and other rights as a Judge, other than the Chief Judge, of the District Court.
- (6) A Judge (other than the Chief Judge) is entitled to a like style and title as that to which a Judge of the District Court is entitled.
- (7) (Repealed)

10 Seniority

The Judges, other than the Chief Judge, shall have seniority according to the dates of their commissions or, when the commissions of 2 or more of them bear the same date, according to the precedence assigned to them by their commissions or, failing assignment, according to the order of their being sworn.

11 Acting Judges

- (1) In the case of the absence of the Chief Judge or of the Chief Judge's inability to exercise the functions of the office of Chief Judge, those functions shall, during the absence or inability, devolve upon the senior Judge unless an appointment has been made under section 11A.
- (2) In the case of the absence, or of an inability to exercise the functions of the office of Chief Judge, of a Judge upon whom the functions of the Chief Judge have devolved under subsection (1), the functions of the Chief Judge shall, during the absence or inability, devolve upon the Judge who is next in seniority.
- (3) A Judge shall, while exercising the functions of the Chief Judge under subsection (1) or (2), have the same remuneration as the Chief Judge.
- (4) The Governor may, by commission under the public seal of the State, appoint any person qualified for appointment as a Judge to act as a Judge for a time not exceeding 12 months to be specified in the commission.
- (5) Acting Judges shall, for the time and subject to the conditions or limitations specified in their commissions, have and may exercise the functions of Judges and shall, for the purposes of this or any other Act, be deemed to be Judges.
- (5A) The person so appointed may, despite the expiration of the period of the person's appointment, complete or otherwise continue to deal with any matters relating to proceedings that have been heard, or partly heard, by the person before the expiration of that period.
- (6) A retired Judge of the Court or of another court in New South Wales (including a retired judicial member of the Industrial Commission or the Industrial Relations Commission) may be appointed as an acting Judge under subsection (4) even though the retired Judge has reached the age of 72 years (or will have reached that age before the appointment expires), but may not be so appointed for any period that extends beyond the day on which he or she reaches the age of 75 years.
- (7) The conditions or limitations specified in a commission under subsection (4) may exclude the whole or any part of the period of appointment from being regarded as prior judicial service (within the meaning of section 8 of the [Judges' Pensions Act 1953](#)) by the person.

11A Absence of Chief Judge

- (1) The Governor may, by commission under the public seal of the State, appoint a Judge to be Acting Chief Judge during such period as the Chief Judge may be absent from his or her duties.
- (2) While holding office, the Acting Chief Judge:

- (a) has the powers and authorities of the Chief Judge, and
- (b) is to fulfil the duties of the Chief Judge, and
- (c) is entitled to the same remuneration as that to which the Chief Judge is entitled.

Division 3 Commissioners

12 Appointment of commissioners

- (1) The Governor may appoint any qualified person to be a commissioner.
- (2) A person is qualified to be appointed as a commissioner if the person:
 - (a) is a practising barrister or practising solicitor, or
 - (b) has, in the opinion of the Minister, had sufficient experience in workers compensation or in other fields of compensation considered by the Minister to be relevant to the functions of a commissioner, or
 - (c) has, in the opinion of the Minister, satisfactorily completed studies in the field of law or industrial relations or some other field of study considered by the Minister to have substantial relevance to the functions of a commissioner.
- (3) Schedule 2 has effect.

13 Acting commissioners

- (1) The Governor may appoint any person qualified for appointment as a commissioner to act as a commissioner for a period not exceeding 12 months to be specified in the instrument of appointment.
- (1A) A person who is of or above the age of 70 years is not qualified to be appointed as an acting commissioner, and a person's appointment as an acting commissioner ceases to have effect on the date on which the person attains the age of 70 years.
- (2) An acting commissioner has, for the period and subject to the conditions or limitations specified in the instrument of appointment, the functions of a commissioner and is, for the purposes of this or any other Act, to be taken to be a commissioner.

Division 4 Officers of the Court

14 Appointment of officers

- (1) A registrar, a deputy registrar, assistant registrars, a chief medical officer and such other officers of the Court as may be necessary for the proper administration of this Act, the regulations and the rules may be appointed and employed under and subject to the [Public Service Act 1979](#).

- (2) The registrar, deputy registrar, assistant registrars, chief medical officer and other officers of the Court shall have such functions as may be prescribed by this Act, the regulations and the rules.
- (3) The deputy registrar and an assistant registrar shall have and may exercise the functions of the registrar, and all acts, matters and things done or omitted by the deputy registrar or an assistant registrar shall be as valid and effectual and shall have the same consequences as if the acts, matters and things had been done or omitted by the registrar.
- (4) The Chief Judge may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

14AA Appointment of acting registrars

- (1) The Minister may, by order in writing, appoint a person to act in the office of registrar during:
 - (a) an absence from duty of the registrar, or
 - (b) a vacancy of not more than 6 months' duration in the office of registrar.
- (2) The Minister may delegate to the Director-General of the Attorney General's Department the Minister's power of appointment under this section.
- (3) While acting in the office of registrar, a person so appointed has and may exercise all the functions of that office.
- (4) Any act, matter or thing done by a person while acting in the office of registrar is taken to have been done by the registrar.
- (5) Any act, matter or thing done by a person while purporting to exercise a function conferred by this section is not ineffective or invalid by reason only that either of the circumstances referred to in subsection (1) (a) or (b) did not exist when the act, matter or thing was done.

Division 5 Medical referees and panels

14A Medical referees

- (1) The Chief Judge may appoint medical practitioners to be medical referees (in addition to the chief medical officer) for the purposes of this Act and the Workers Compensation Acts.
- (2) The Chief Judge is to obtain the advice of the chief medical officer or other suitable persons on the appointment of medical referees.

The Chief Judge is to consult concerning proposed appointments of medical referees with such employer and employee organisations as the Minister may nominate from time to time or, in the absence of any such nomination, as the Chief Judge considers appropriate.

- (3) A medical practitioner may be appointed as a medical referee whether or not the practitioner is an officer of the Court and whether or not the practitioner resides in New South Wales.
- (4) If a medical referee has been employed as a medical practitioner in connection with any case by or on behalf of an employer or worker, or by an insurer interested in that case, the medical referee is not qualified to act as medical referee in that case.

14B Medical panels

- (1) Medical panels are to be constituted in accordance with this section for the purposes of this Act and the Workers Compensation Acts.
- (2) A medical panel is to be constituted, in respect of any particular matter or class of matters, by 2 or more medical referees nominated by (or in accordance with arrangements made by) the chief medical officer.
- (3) Any such nomination or arrangement made by the chief medical officer is subject to any direction of the Court.
- (4) The chief medical officer may nominate himself or herself as a member of a medical panel.

Part 3 Jurisdiction of the Court

Division 1 General

15 Jurisdiction of the Court

- (1) The Court shall have the jurisdiction vested in it by or under this or any other Act.
- (2) The Court has the functions vested in the District Court in respect of the following matters:
 - (a) compelling the attendance of witnesses and examining them on oath, affirmation or declaration,
 - (b) compelling the production, discovery and inspection of books, records, documents and other papers,
 - (c) compelling witnesses to answer questions which the Court considers to be relevant in any proceedings before it,

(d) the punishment of persons guilty of contempt, or of disobedience to any order made by the Court, or any process issuing out of the Court,

(e) directing witnesses to be prosecuted for perjury.

(3) (Repealed)

16 (Repealed)

17 Decisions of the Court

(1) A decision of the Court in any matter shall be upon the real merits and justice of the case.

(2) The Court shall not be bound to follow strict legal precedent.

(3) Subject to Part 4 of this Act, a decision or proceeding of the Court shall not:

(a) be vitiated by reason of any informality or want of form, or

(b) be liable to be challenged, appealed against, reviewed, quashed or called in question by any court.

(4) Nothing in subsection (3) shall prevent the Court from reconsidering any matter which has been dealt with by it, or from rescinding, altering or amending any decision previously made or given by the Court, all of which the Court shall have authority to do.

(4A), (5) (Repealed)

(6) Subject to Part 4 of this Act:

(a) no proceedings, whether for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, shall lie in respect of any decision or proceeding of the Court relating to, or on the face of the proceedings appearing to relate to, any matter within its jurisdiction, and

(b) the validity of any decision or proceeding of the Court shall not be challenged in any manner.

(7) In this section, **decision** includes award, order, determination, ruling and direction.

18 Costs under other Acts

Section 112 of the [Workplace Injury Management and Workers Compensation Act 1998](#) extends to any proceedings in the Court (not just proceedings under that Act) and in its application to proceedings under any other Act is not limited by section 111A (Costs provisions apply only to existing claims) of that Act.

18A-19A (Repealed)

Division 2 Exercise of jurisdiction

20 Proceedings of the Court

- (1) The Court may:
 - (a) conduct its proceedings in public or private as it may think fit, and
 - (b) adjourn its proceedings to any time or place.
 - (c) (Repealed)
- (2) (Repealed)

21 Sittings of the Court

- (1) The Court shall sit at such places and times as the Chief Judge may direct.
- (2) More than one sitting of the Court may be held at the same time.

22 Arrangement of business of the Court

- (1) The Chief Judge is responsible for making arrangements as to whether the Court's functions are to be exercised by a Judge, commissioner or registrar, including arrangements as to the particular Judge, commissioner or registrar who is to exercise those functions.
- (2) In making those arrangements, the Chief Judge should ensure that, as far as practicable:
 - (a) matters specified in Schedule 3 are allocated to commissioners unless the particular matter is not appropriate for determination by a commissioner, and
 - (b) other matters are allocated to commissioners if they are appropriate for determination by a commissioner.
- (3) In deciding whether a matter is or is not appropriate for determination by a commissioner, the Chief Judge is to have regard to:
 - (a1) the need for proceedings to be disposed of efficiently by the Court, including the need to make full use of the commissioners, and
 - (a) the complex, unusual or important nature of any legal or factual issue involved, and
 - (b) multiplicity of parties, and
 - (c) the amount of compensation claimed, and
 - (d) any other special circumstances.

- (4) The regulations may amend or substitute Schedule 3.

23 Enforcement of awards and orders

- (1) Where an award or order of the Court for the payment of money has been entered up or made in favour of any person and provision is not made in any other Act for the recovery of that money, the registrar:
- (a) upon the application of the person or of the person's solicitor or agent, shall issue and deliver to the person, solicitor or agent a certificate in or to the effect of the prescribed form, and
 - (b) shall make a minute or memorandum thereof against the entry of the award or order.
- (2) A person to whom a certificate has been issued and delivered under subsection (1) may file, or cause to be filed, the certificate with the registrar under the [District Court Act 1973](#) at the proclaimed place under that Act which is nearest the debtor's place of residence or business.
- (3) A registrar under the [District Court Act 1973](#) with whom a certificate has been filed by a person under subsection (2) shall enter judgment for the person for the amount of the certificate together with:
- (a) the fees paid for the certificate to the registrar of the Compensation Court, and
 - (b) the fees paid for filing the certificate and entering judgment.

24 Informal proof and admissions

- (1) The Court may at any stage of any proceedings before it:
- (a) dispense with the rules of evidence for proving any matter which is not bona fide in dispute, and with such rules as might cause expense and delay arising from any commission to take evidence or arising otherwise; and, without limiting the generality of this power, dispense with the proof of handwriting, documents, the identity of parties or parcels, or of authority, and
 - (b) require any party to the proceedings, not being a minor or person of unsound mind, to make admissions with respect to any document or to any question of fact; and in the case of refusal or neglect to make the admissions may, unless the Court is of the opinion that the refusal or neglect is reasonable, order that the costs of proof occasioned by the refusal or neglect shall be paid by that party.
- (2) An admission made as required by the Court under subsection (1) (b):
- (a) shall be for the purpose of the proceedings in which it is made and for no other purpose,

(b) shall be subject to all just exceptions, and

(c) may, with the leave of the Court, be amended or withdrawn.

(3) The Court may give leave for the purposes of subsection (2) (c) on terms.

25 Special provision for evidence of exposure to noise

Historical evidence and general medical or other expert evidence concerning exposure of workers to noise in employment with particular employers or in employment of a particular class, which has been admitted in any proceedings before the Court, may, with the leave of the Court, be received as evidence in any other proceedings before the Court, whether or not the proceedings are between the same parties.

25A (Repealed)

Division 3 Commissioners' jurisdiction

26 Commissioners' jurisdiction

- (1) A commissioner may exercise the functions of the Court in respect of any matter allocated to the commissioner under section 22.
- (2) If a matter so allocated to a commissioner is specified in Schedule 3, the commissioner may hear and determine the matter without regard to any limitation as to the amount of any award or otherwise to which the matter is subject in that Schedule.
- (3) (Repealed)
- (4) A commissioner is, in the exercise of any function of the Court conferred on the commissioner by or under this or any other Act, to be taken to be the Court.

27 Procedure before commissioners

- (1) Proceedings in any matter before a commissioner are to be conducted with as little formality and technicality as the proper consideration of the matter permits.
- (2) A party to any proceedings before a commissioner may be represented by a barrister or solicitor.
- (3) Proceedings before a commissioner are to be recorded unless the commissioner otherwise orders or the rules otherwise provide.
- (4) The decision of a commissioner in any proceedings is, subject to the rules, to include details of the findings made by the commissioner on material questions of fact and of the commissioner's reasons for the decision.

Division 4 Registrar's jurisdiction

28 Registrar to be deemed to be the Court in certain circumstances

A registrar shall, in the exercise of any function of the Court conferred on a registrar by or under this or any other Act, be deemed to be the Court.

29 Registrar's jurisdiction

- (1) A registrar may exercise such of the functions of the Court as are conferred on a registrar by the regulations or the rules of Court.
- (2) (Repealed)
- (3) A registrar may exercise the functions of any other registrar.

Division 5 Pre-hearing conferences and arbitration

30 Pre-hearing conferences and arbitration

- (1) Rules of Court shall be made for or with respect to arranging and conducting pre-hearing conferences.
- (1A) A Judge of the Court or a commissioner is not disqualified from hearing a matter merely because the Judge or the commissioner held a pre-hearing conference with respect to the matter.
- (2) Where proceedings are pending in the Court's jurisdiction, the Court may refer the proceedings, or any matter arising from the proceedings, for arbitration by an arbitrator.
- (3) The procedure for appointing arbitrators for the purpose of subsection (2), and for arranging or conducting arbitration proceedings, shall be in accordance with the rules.
- (4) (Repealed)

Part 4 Appeals etc

Division 1 Appeals from Judges

31 Definition

- (1) In this Part, **award** includes interim award, order, decision, determination, ruling and direction.
- (2) A reference in this Part to the making of an award includes, where the award is a ruling or direction, a reference to the giving of the ruling or direction.

32 Appeal to Court of Appeal from Judge on question of law

- (1) If a party to any proceedings before the Court constituted by a Judge is aggrieved by an award of the Judge in point of law or on a question as to the admission or rejection of evidence, that party may appeal to the Court of Appeal.
- (2) The Court of Appeal may, on the hearing of any appeal under this section, remit the matter to the Compensation Court for determination by the Compensation Court in accordance with any decision of the Court of Appeal and may make such other order in relation to the appeal as the Court of Appeal sees fit.
- (3) A decision of the Court of Appeal on an appeal under this section is binding on the Compensation Court and on all the parties to the proceedings in respect of which the appeal was made.
- (4) The following appeals under this section may be made only by leave of the Court of Appeal:
 - (a) an appeal from an interlocutory decision,
 - (b) an appeal from a decision as to costs only,
 - (c) an appeal from a final decision or award, other than an appeal that involves (directly or indirectly) a claim for, or a question relating to, an amount of \$20,000 or more.

33, 34 (Repealed)

Division 1A Appeals etc from commissioners

34A Appeal to Judge from commissioner

- (1) If a party to any proceedings before a commissioner is aggrieved by an award of the commissioner in point of law or on a question as to the admission or rejection of evidence, that party may appeal to a Judge.
- (2) If, in any proceedings before a commissioner, the commissioner has misused a statutory discretion, any party to those proceedings may appeal to a Judge but such an appeal cannot be made without the leave of a Judge.
- (3) Regulations may be made for or with respect to prescribing further grounds on which appeals may be made to a Judge with respect to proceedings before a commissioner.
- (4) There is to be no re-hearing or new hearing of proceedings the subject of appeal under this section. However, the Judge hearing the appeal may, by leave, receive further evidence if the Judge considers that special grounds exist or if the evidence concerns matters occurring after the decision appealed against.

- (5) A Judge may, on the hearing of any appeal under this section:
 - (a) remit the matter to the appropriate commissioner for determination by the commissioner in accordance with any decision of the Judge, or
 - (b) make such other order in relation to the appeal as the Judge sees fit.
- (6) In this section, **award** includes interim award, order, decision, determination, ruling and direction.

34B References of questions of law to a Judge

- (1) A commissioner may:
 - (a) of the commissioner's own motion, or
 - (b) on application by the parties, or any one of them,refer for the opinion of a Judge any question arising in proceedings before the commissioner that is a question of law or a question that the commissioner thinks is of sufficient importance to warrant consideration by a Judge.
- (2) Despite the reference of a question to a Judge by a commissioner under this section (not being the question of whether the commissioner may exercise powers under this Act in relation to a matter), the commissioner may make an award in the matter in which the question arose.
- (3) Upon the determination by a Judge of a question referred under this section:
 - (a) if the commissioner has not made an award in the matter in which the question arose, the commissioner may make an award not inconsistent with the opinion of the Judge, or
 - (b) if the commissioner has made an award in the matter in which the question arose, the commissioner is to vary that award in such a way as will make it consistent with the opinion of the Judge.

Division 2 Appeals etc from registrars

35 (Repealed)

36 Review of decisions

- (1) Where a registrar makes a decision or does any other act in any proceedings, the Court may, on application by any party, review the decision or act, and may make such order by way of confirmation, variation or discharge or otherwise as the Court thinks fit.
- (2) Any such application for review must be made within the time and in the manner

prescribed by rules of Court.

37 References to the Court

(1) A registrar may:

- (a) of the registrar's own motion, or
- (b) on application by the parties, or any one of them,

refer to the Court any question or matter arising in proceedings before the registrar where the registrar is of the opinion that the question or matter is of such importance as to warrant consideration by the Court.

(2) Upon the reference to it of any question or matter under subsection (1), the Court may:

- (a) hear and determine the question or matter, or
- (b) hear and determine the question or matter and remit the proceedings to the registrar with such directions as the Court thinks fit.

Division 3 Stay of proceedings

38 Stay of proceedings

- (1) The Compensation Court may, subject to any order of the Supreme Court, order a stay of proceedings (on such terms as the Compensation Court thinks fit) in respect of any award the subject of an appeal, a review, a stated case or a request for a stated case under this Part.
- (2) In the absence of a stay of proceedings ordered by the Supreme Court or by the Compensation Court, a notice of appeal, review, stated case or request for a stated case does not operate as a stay of proceedings.
- (3) If a stay of proceedings is ordered by the Supreme Court or the Compensation Court in respect of an appeal against or review of an award of weekly payments of compensation, the stay of proceedings does not operate to affect the liability to make those payments under the award to the extent that the payments are in respect of a period after the award is made.
- (4) If the decision of the Supreme Court or Compensation Court on any such appeal or review is to terminate liability to make the weekly payments of compensation, that Court may:
 - (a) order that the Uninsured Liability and Indemnity Scheme established under the Workers Compensation Acts bear the whole or a specified part of the liability to make those payments, and

- (b) give such directions as are necessary to give effect to the order.

Part 4A Mediation and neutral evaluation

38A Purpose of Part

- (1) The purpose of this Part is to enable the Court to refer matters for mediation or neutral evaluation if the parties to the proceedings concerned have agreed to that course of action.
- (2) This Part does not prevent:
 - (a) the parties to proceedings from agreeing to and arranging for mediation or neutral evaluation of any matter otherwise than as referred to in this Part, or
 - (b) a matter arising in proceedings from being dealt with under the provisions of the [Community Justice Centres Act 1983](#).

38B Meaning of “mediation” and “neutral evaluation”

- (1) For the purposes of this Part, **mediation** means a structured negotiation process in which the mediator, as a neutral and independent party, assists the parties to a dispute to achieve their own resolution of the dispute.
- (2) For the purposes of this Part, **neutral evaluation** means a process of evaluation of a dispute in which the evaluator seeks to identify and reduce the issues of fact and law that are in dispute. The evaluator’s role includes assessing the relative strengths and weaknesses of each party’s case and offering an opinion as to the likely outcome of the proceedings, including any likely findings of liability or the award of compensation.

38C Other definitions

In this Part:

evaluator means a person to whom the Court refers a matter for neutral evaluation under this Part.

mediation session means a meeting arranged for the mediation of a matter under this Part.

mediator means a person to whom the Court refers a matter for mediation under this Part.

neutral evaluation session means a meeting arranged for the neutral evaluation of a matter under this Part.

38D Referral by Court

- (1) The Court may, by order, refer a matter arising in proceedings before it (other than

criminal proceedings) for mediation or neutral evaluation if:

- (a) the Court considers the circumstances appropriate, and
- (b) the parties to the proceedings consent to the referral, and
- (c) the parties to the proceedings agree as to who is to be the mediator or evaluator for the matter.

- (2) The mediator or evaluator may, but need not be, a person whose name is on a list compiled under this Part.

38E Mediation and neutral evaluation to be voluntary

- (1) Attendance at and participation in mediation sessions or neutral evaluation sessions are voluntary.
- (2) A party to a mediation session or neutral evaluation session may withdraw from the session at any time.

38F Costs of mediation and neutral evaluation

The cost of providing mediation and neutral evaluation for the purposes of this Part (including the remuneration of mediators and neutral evaluators and the cost of administrative support) is a cost of operation of the Compensation Court and accordingly is payable under section 35 (2) (f) of the [Workplace Injury Management and Workers Compensation Act 1998](#).

38G Agreements and arrangements arising from mediation sessions

- (1) The Court may make orders to give effect to any agreement or arrangement arising out of a mediation session.
- (2) This Part does not affect the enforceability of any other agreement or arrangement that may be made, whether or not arising out of a mediation session, in relation to the matters the subject of a mediation session.

38H Mediators and evaluators

- (1) The Chief Judge may compile a list or lists of persons considered by the Chief Judge to be suitable to be mediators for the purposes of this Part.
- (2) The Chief Judge may compile a list or lists of persons considered by the Chief Judge to be suitable to be evaluators for the purposes of this Part.
- (3) Different lists may be compiled for different types of matters or to take account of any other factors.
- (4) A person may be included in a list under this section only if:

- (a) the person consents to being included in the list, and
 - (b) the person agrees to comply with the provisions of this Part and of any regulations or rules made for the purposes of this Part.
- (5) The Chief Judge may amend or revoke any list compiled under this section for any reason that the Chief Judge considers appropriate.
- (6) The Chief Judge is to review at least annually any list compiled under this section.

38I Privilege

- (1) In this section, **mediation session** or **neutral evaluation session** includes any steps taken in the course of making arrangements for the session or in the course of the follow-up of a session.
- (2) Subject to subsection (3), the same privilege with respect to defamation as exists with respect to judicial proceedings and a document produced in judicial proceedings exists with respect to:
- (a) a mediation session or neutral evaluation session, or
 - (b) a document or other material sent to or produced to a mediator or evaluator, or sent to or produced at the Court or the registry of the Court, for the purpose of enabling a mediation session or neutral evaluation session to be arranged.
- (3) The privilege conferred by subsection (2) only extends to a publication made:
- (a) at a mediation session or neutral evaluation session, or
 - (b) as provided by subsection (2) (b), or
 - (c) as provided by section 38J.
- (4) Evidence of anything said or of any admission made in a mediation session or neutral evaluation session is not admissible in any proceedings before any court, tribunal or body.
- (5) A document prepared for the purposes of, or in the course of, or as a result of, a mediation session or neutral evaluation session, or any copy of such a document, is not admissible in evidence in any proceedings before any court, tribunal or body.
- (6) Subsections (4) and (5) do not apply with respect to any evidence or document:
- (a) if the persons in attendance at, or identified during, the mediation session or neutral evaluation session and, in the case of a document, all persons identified in the document, consent to the admission of the evidence or document, or
 - (b) in proceedings instituted with respect to any act or omission in connection with

which a disclosure has been made under section 38J (c).

38J Secrecy

A mediator or evaluator may disclose information obtained in connection with the administration or execution of this Part only in any one or more of the following circumstances:

- (a) with the consent of the person from whom the information was obtained,
- (b) in connection with the administration or execution of this Part,
- (c) if there are reasonable grounds to believe that the disclosure is necessary to prevent or minimise the danger of injury to any person or damage to any property,
- (d) if the disclosure is reasonably required for the purpose of referring any party or parties to a mediation session or neutral evaluation session to any person, agency, organisation or other body and the disclosure is made with the consent of the parties to the mediation session or neutral evaluation session for the purpose of aiding in the resolution of a dispute between those parties or assisting the parties in any other manner,
- (e) in accordance with a requirement imposed by or under a law of the State (other than a requirement imposed by a subpoena or other compulsory process) or the Commonwealth.

38K Exoneration from liability for listed mediators and evaluators

No matter or thing done or omitted to be done by a mediator or evaluator subjects the mediator or evaluator to any action, liability, claim or demand if:

- (a) the matter or thing was done in good faith for the purposes of a mediation session or neutral evaluation session under this Part, and
- (b) when the subject-matter of the mediation or neutral evaluation was referred for mediation or neutral evaluation, the mediator's or evaluator's name was included in a list compiled under this Part.

38L Regulations for the purposes of this Part

The regulations may include provisions for the purposes of this Part.

Part 5 Miscellaneous provisions

39 Costs of operation of the Court

The Minister shall, in the month of December in each year (or, if some other month is prescribed by the regulations, that other month), prepare and forward to the WorkCover Authority an estimate of the amount required for the remuneration, fees and allowances

payable to:

- (a) the Judges, commissioners, officers and staff of the Court, and
- (b) arbitrators appointed under this Act,

and any other costs of operation of the Court (including the provision of court accommodation) for the year commencing on the next following 1 July.

39A Compensation Court Working Account

- (1) The Treasurer is to establish in the Special Deposits Account a Compensation Court Working Account.
- (2) The working account is established for the purpose of meeting the costs of operation of the Compensation Court.
- (3) The amount provided from the WorkCover Authority Fund under section 35 (2) (f) of the [Workplace Injury Management and Workers Compensation Act 1998](#) is to be paid into the Compensation Court Working Account.
- (4) The Secretary of the Attorney General's Department has the control and management of the Compensation Court Working Account.

40 Delegation

- (1) The Chief Judge may, by instrument in writing, delegate to a Judge the exercise of such of the functions of the Court or of the Chief Judge as are specified in the instrument.
- (2) The registrar may, by instrument in writing, delegate to an officer of the Court the exercise of such of the registrar's functions as are specified in the instrument.
- (3) The Chief Judge or the registrar shall not, under this section, delegate the function of hearing any matter before the Court.
- (4) A function the exercise of which has been delegated under this section may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the delegate.
- (5) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function the subject thereof, or as to time or circumstances, as may be specified in the instrument of delegation.
- (6) Notwithstanding any delegation under this section, the Chief Judge, the Court or the registrar, as the case may be, may continue to exercise any function delegated.
- (7) Any act or thing done or suffered by a delegate acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done

or suffered by the Chief Judge, the Court or the registrar, as the case may be, and shall be deemed to have been done or suffered by the Chief Judge, the Court or the registrar, as the case may be.

- (8) The Chief Judge or the registrar may, by instrument in writing, revoke wholly or in part any delegation made by the Chief Judge or the registrar, respectively, under this section.
- (9) An instrument purporting to have been signed by a person in the capacity of a delegate of the Chief Judge or the registrar shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument duly executed by the Chief Judge or the registrar, as the case may be, and shall, until the contrary is proved, be deemed to be an instrument signed by a delegate of the Chief Judge or the registrar, as the case may be.
- (10) Any instrument necessary to be executed and any notice, order, summons or other like document requiring authentication for the purpose of the exercise of any function delegated to any person under this section shall be sufficiently executed or authenticated, as the case may be, if signed by the delegate in such a way as to show that the delegate does so under and in pursuance of the delegation.
- (11) Except as provided in subsection (2), nothing in this section authorises the delegation of the powers of delegation conferred by this section.

41 Liaison with WorkCover Authority

- (1) The Chief Judge may refer to the WorkCover Authority for inquiry or report any matter relating to the functions of the Court.
- (2) A Judge or commissioner may refer to the WorkCover Authority:
 - (a) a report on suspected fraud or contravention of the Workers Compensation Acts or the regulations under either of those Acts by any party to proceedings, and
 - (b) a report on any neglect in the provision of rehabilitation for an injured worker, and
 - (c) any other matter the Judge or commissioner considers appropriate to refer to the Authority.

42 Rule Committee

- (1) Where, in this or any other Act, it is provided that rules of Court may or shall be made, those rules shall be made by a Rule Committee consisting of:
 - (a) the Chief Judge,
 - (b) 4 other appointed Judges,
 - (c) an appointed commissioner,

(d) an appointed barrister, and

(e) an appointed solicitor.

(2) In this section, **appointed** means appointed to the Rule Committee by the Chief Judge by an instrument in writing.

(2A) In this section and section 42A:

barrister means a legal practitioner who holds a current practising certificate as a barrister.

solicitor means a legal practitioner who holds a current practising certificate as a solicitor.

(3) A person appointed shall hold office for the time specified in the instrument of the person's appointment but may resign by an instrument in writing addressed to the Chief Judge.

(4) At a meeting of the Rule Committee the chairman shall be:

(a) the Chief Judge, if present, or

(b) in the absence of the Chief Judge, a Judge who is present and chosen by the meeting.

(5) In the case of an equality of votes at a meeting of the Rule Committee, the chairman shall have a casting as well as a deliberative vote.

(6) Any 5 members of the Rule Committee shall constitute a quorum.

(7) The registrar or, in the absence of the registrar, a person approved by the Chief Judge shall be secretary of the Rule Committee.

(7A) The Rule Committee may, if it thinks fit, transact any of its business by the circulation of papers among all members of the Rule Committee for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Rule Committee.

(8) Subject to this section, the Rule Committee may regulate its own procedure.

42A Deputies for barrister and solicitor members

(1) The Chief Judge may, from time to time, appoint to the Rule Committee:

(a) a barrister to be the deputy of the member appointed under section 42 (1) (d),
and

(b) a solicitor to be the deputy of the member appointed under section 42 (1) (e),

and the Chief Judge may revoke any such appointment.

(2) In the absence of a member appointed under section 42 (1) (d) or (e), the member's deputy:

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

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

43 Rules

(1) Rules of Court may be made for or with respect to:

(a) all matters of procedure and practice, including the prescription of forms to be used in any proceedings before the Court and the payment of witnesses' expenses,

(a1) (Repealed)

(a2) regulating and prescribing the practice and procedure to be followed in the mediation or neutral evaluation of any matter under Part 4A, and

(b) any matters that by or under the provisions of this or any other Act are required or permitted to be prescribed by rules of Court or that are necessary or convenient to be prescribed by rules of Court for carrying out or giving effect to those provisions.

(1A) (Repealed)

(2) Without affecting the generality of subsection (1), rules of Court may be made, in relation to matters within the Court's jurisdiction, for or with respect to:

(a) the conduct of call-overs of matters for hearing by the Court,

(b) the issue and return of subpoenas,

(c) the listing of matters and the removal of matters from lists,

(d) the commencement of proceedings,

(e) pre-hearing conferences and arbitration,

(f) the charging of fees for interpreting services,

(g) the enforcement of awards, orders, determinations, rulings, directions or decisions of the Court,

(h) authorising a registrar to:

(i) exercise any function of the Court (not being the function of making rules), or

(ii) exercise any function that, under the rules, is necessary to be exercised,

- (i) the regulation of the payment or transfer of money into or out of Court,
 - (j) providing for default judgments and orders for summary judgment and the circumstances in which such judgments and orders may be given or made, and
 - (k) regulating the means by which particular facts may be proved, and the mode in which evidence may be given (including the administration of oaths to and the taking of evidence of witnesses in or out of New South Wales), in any proceedings or in any application in connection with, or at any stage of, any proceedings.
- (3) Rules of Court may be made so as to apply differently according to such factors as may be specified in the rules.
- (4) If a rule under this section is inconsistent with a provision of the Workers Compensation Acts or of a regulation under either of those Acts, that provision shall prevail to the extent of any inconsistency.
- (5) This section does not give power to make rules with respect to any matter relating to costs that is regulated by Part 11 of the [Legal Profession Act 1987](#).
- (6) A practice note (including any other document, however described, which regulates the practice or procedure of the Court, or of any class of proceedings in the Court, but excluding a decision of the Court) issued by or on behalf of the Court is taken to be a statutory rule for the purposes of Part 6 of the [Interpretation Act 1987](#). This subsection does not apply to a practice note issued before the commencement of this subsection.

44-46 (Repealed)

47 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to:
- (a) fixing or otherwise relating to fees to be taken in respect of the business of the Court,
 - (a1) (Repealed)
 - (b) all matters that by this Act are required or permitted to be prescribed by regulations or that are necessary or convenient to be prescribed by regulations for carrying out or giving effect to this Act.
- (2) A provision of a regulation may:
- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
 - (b) apply differently according to different factors of a specified kind, or

- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

48 Savings and transitional provisions

Schedule 4 has effect.

Schedule 1 (Repealed)

Schedule 2 Commissioners

(Section 12)

1 Age of commissioners

A person of or above the age of 70 years is not eligible to be appointed as a commissioner.

2 Term of office

(1) A commissioner holds office, (subject to this Schedule):

- (a) if the commissioner was appointed before reaching the age of 64 years—until the commissioner reaches the age of 65 years, or
- (b) in any other case—for a period (not exceeding 12 months) specified in the instrument of appointment.

(2) Subject to this Schedule, the Governor may, before the expiration of a commissioner's term of office, extend from time to time that term for a period or periods each not exceeding 12 months.

3 Full-time or part-time Commissioners

- (1) A Commissioner may be appointed as either a full-time or part-time Commissioner.
- (2) A full-time Commissioner is required to devote the whole of his or her time to the duties of the office of Commissioner.

4 Remuneration

A commissioner 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 commissioner.

5 Application of [Public Sector Management Act 1988](#)

The [Public Sector Management Act 1988](#) does not apply to or in respect of the appointment of a commissioner and a commissioner is not, as a commissioner, subject to that Act.

6 Leave

(1) A commissioner is entitled to such leave:

- (a) as may be prescribed by the regulations, or
- (b) as may be specified in respect of the commissioner in the commissioner's instrument of appointment.

(2) Leave may be prescribed or specified as referred to in subclause (1) by reference to the leave entitlement of the holder of any other office or class of office.

7 Oath of office

The [Oaths Act 1900](#) applies to and in respect of a commissioner in the same way as it applies to and in respect of a Magistrate.

8 Removal from office

The Governor may remove a commissioner from office for misbehaviour or incompetence.

9 Vacation of office

A commissioner vacates office if the commissioner:

- (a) completes a term of office and is not re-appointed, or
- (b) dies, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) 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
- (e) is removed from office by the Governor under clause 8, or
- (f) reaches the age of 70 years.

Schedule 3 Functions of the Court that may be exercised by

commissioners

(Section 22)

- (a) Claims for weekly payments of compensation in respect of closed periods of incapacity.
- (b) Claims for weekly payments of compensation in respect of partial incapacity where the worker is in receipt of earnings.
- (c) **(Repealed)**
- (d) Determinations of lump sum for commutation (under section 51 of the [Workers Compensation Act 1987](#)) or redemption (under Part 4 of Schedule 6 to that Act) of weekly payments of compensation if the lump sum claimed does not exceed \$40,000 or (if an amount is not specified) is not likely to exceed \$40,000.
- (e) Claims for cost of medical or related treatment, hospital treatment, ambulance service or occupational rehabilitation service (and related travel expenses).
- (f) Applications for direction that employer liable for greater amount than prescribed maximum amount for medical and related treatment, hospital treatment or occupational rehabilitation service.
- (g) Applications for compensation under Division 4 of Part 3 of the [Workers Compensation Act 1987](#) if the amount claimed does not exceed \$40,000 or (if an amount is not specified) is not likely to exceed \$40,000.
- (h) Applications for formal award for compensation for non-economic loss under Division 4 of Part 3 of the [Workers Compensation Act 1987](#) where parties agree on the amount of compensation.
- (i) Applications for compensation for a loss which (under Part 6 of Schedule 6 to the [Workers Compensation Act 1987](#)) is to be determined in accordance with section 16 of the [Workers' Compensation Act 1926](#).
- (j) Claims for compensation for property damage under Division 5 of Part 3 of the [Workers Compensation Act 1987](#).
- (k) Applications for orders under section 85 of the [Workers Compensation Act 1987](#) for variation of investment or other dealing with compensation held for the benefit of the persons entitled to the compensation.
- (l) Applications for determinations under section 53 of the [Workers Compensation Act 1987](#) that incapacity for work is likely to be of a permanent nature for the purpose of the worker receiving payments outside Australia.
- (m) Applications for authorisation of payment of compensation in a manner not specifically authorised by section 83 of the [Workers Compensation Act 1987](#).
- (n) Applications for an order under section 58 of the [Workers Compensation Act 1987](#) for the refund

by a worker of over-payments of weekly payments compensation.

- (o) Pre-hearing conferences.
- (p) Applications for revocation of directions made by a conciliator for the payment of weekly payments of compensation or for an order under section 79 (3) of the [Workplace Injury Management and Workers Compensation Act 1998](#).
- (q) Any matter referred to a commissioner by a Judge under section 16 (in accordance with the terms of reference).
- (r) Any other matter ancillary to the above matters.

Schedule 4 Savings and transitional provisions

(Section 48)

Part 1 General

1 Savings and transitional regulations

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

[Compensation Court \(Amendment\) Act 1989](#)

[Workers Compensation \(Compensation Court\) Amendment Act 1989](#)

[Workers Compensation Legislation \(Amendment\) Act 1991](#)

[WorkCover Legislation Amendment Act 1995](#)

[Courts Legislation Further Amendment Act 1997](#).

- (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 anything done or omitted to be done before the date of its publication.

Part 2 Compensation Court (Amendment) Act 1989

2 Pending proceedings before commissioners etc

(1) In this clause:

the repeal means the repeal of Part 8 of the *Workers Compensation Act 1987* by the *Workers Compensation (Compensation Court) Amendment Act 1989*.

(2) After the repeal the following provisions apply:

- (a) this Act, as amended by the *Compensation Court (Amendment) Act 1989*, applies to proceedings under the *Workers Compensation Act 1987* whether the proceedings were commenced before or after the commencement of those amendments,
- (b) any proceedings transferred or deemed to have been transferred to the Compensation Court under section 109 of the *Workers Compensation Act 1987* before the repeal are to be regarded as proceedings pending before the Compensation Court,
- (c) any proceedings pending before a workers compensation commissioner under the *Workers Compensation Act 1987* immediately before the repeal are to be regarded as proceedings pending before the Compensation Court,
- (d) any proceedings allocated to but not determined by a workers compensation commissioner under the *Workers Compensation Act 1987* immediately before the repeal are to be regarded as proceedings allocated under this Act to that commissioner or, if the Chief Judge so directs, to a Judge or another commissioner nominated by the Chief Judge,
- (e) an appeal or reference to the Compensation Court that is pending under the *Workers Compensation Act 1987* immediately before the repeal is to be regarded as a review or reference to the Compensation Court under this Act,
- (f) an award (including an interim award), order, decision, determination, ruling or direction made or given under the *Workers Compensation Act 1987* by a workers compensation commissioner before the repeal is to be regarded as having been made or given by the Compensation Court constituted by a commissioner of that Court.

3 Commissioners to be continued in office under this Act

- (1) A person who held office immediately before the repeal of Part 8 of the *Workers Compensation Act 1987* as a workers compensation commissioner (including a person who was the Senior Commissioner) is, on the repeal of that Part, to be regarded as having been appointed as a commissioner under section 12 of this Act for a period

expiring on the date the person reaches the age of 60 years (or if appointed after that age, for a period expiring on the anniversary of the appointment).

- (2) Subclause (1) applies to any such person even though the person is not qualified for appointment under section 12.
- (3) Any such person is (if otherwise qualified) eligible for re-appointment under this Act.
- (4) Clauses 8 and 9 of Schedule 2 to the *Workers Compensation Act 1987* (preservation of rights and entitlement to re-appointment) continue to apply (despite their repeal) to any such person.
- (5) Pending a further determination of remuneration in accordance with this Act, any such person is entitled to continue to receive the remuneration payable to the person immediately before the repeal of Part 8 of the *Workers Compensation Act 1987*.
- (6) The person who was the Senior Commissioner may retain that title.

4 Liability of commissioners etc

- (1) Section 247 of the *Workers Compensation Act 1987* (protection from liability) continues to apply, despite its repeal, in respect of any matter or thing done by a workers compensation commissioner before its repeal.
- (2) Section 17BB of the *Defamation Act 1974* (as in force immediately before the substitution of that section by the *Workers Compensation (Compensation Court) Amendment Act 1989*) continues to apply in respect of any matter or thing done by a workers compensation commissioner or review officer before the amendment of that section.

4A Superseded references to workers compensation commissioners

- (1) After the repeal of Part 8 of the *Workers Compensation Act 1987*, a reference to a workers compensation commissioner:
 - (a) in any Act (other than this Act), or
 - (b) in any instrument made under any Act, or
 - (c) in any other document of any kind,is to be read as a reference to the Compensation Court.
- (2) This clause is taken to have commenced on 15 September 1989.
- (3) Subclauses (1) and (2) re-enact (with minor modification) part of clause 3 of the *Compensation Court (Savings and Transitional) Regulation 1989*. Subclauses (1) and (2) are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.

5 Appeals

- (1) An appeal that does not involve a point of law or the admission or rejection of any evidence does not lie in respect of an award given in proceedings commenced before the commencement of the amendments made to section 32 by the *Compensation Court (Amendment) Act 1989*.
- (2) The amendments made to section 32 by the *Compensation Court (Amendment) Act 1989* do not affect any appeals commenced before the commencement of those amendments.

Part 3 Workers Compensation Legislation (Amendment) Act 1991

6 Existing medical referees and panels

- (1) A medical referee appointed under section 127 of the *Workers Compensation Act 1987* and holding office immediately before the repeal of that section is taken to have been appointed under section 14A of this Act.
- (2) A medical panel constituted under section 128 of the *Workers Compensation Act 1987* and which has not completed its work immediately before the repeal of that section is taken to have been constituted under section 14B of this Act.
- (3) Any matter pending before a medical referee or medical panel under section 130 or 131 of the *Workers Compensation Act 1987* on the commencement of this clause is not affected by the amendments made to that section by the *Workers Compensation Legislation (Amendment) Act 1991*.
- (4) In any other Act, an instrument made under any Act or any other document, a reference to a medical referee appointed under, or a medical panel constituted under, the *Workers Compensation Act 1987* is to be read as a reference to a medical referee appointed under, or a medical panel constituted under, this Act.

Part 4 WorkCover Legislation Amendment Act 1995

7 Application of amendments to pending proceedings

- (1) An amendment made to this Act by the *WorkCover Legislation Amendment Act 1995 (the 1995 Act)* does not apply to proceedings in the Court commenced before the commencement of the amendment (except as provided by subclause (2)) but applies to proceedings commenced after the commencement of the amendment whenever the cause of action arose.
- (2) An amendment made by the 1995 Act to Division 1 (Appeals from Judges) of Part 4 extends to proceedings commenced before the commencement of the amendment but only if no hearing in the proceedings has commenced to be heard before the commencement of the amendment.

Part 5 Courts Legislation Further Amendment Act 1997

8 Age qualifications for commissioners etc

The amendments made by the [Courts Legislation Further Amendment Act 1997](#) to section 13 and Schedule 2 apply to persons appointed before the commencement of those amendments in the same way as they apply to persons appointed after that commencement.

9 Appeals to the Court of Appeal

Section 32 (4), as inserted by the [Courts Legislation Further Amendment Act 1997](#), applies to decisions of the Court made before the commencement of that subsection in the same way as it applies to decisions of the Court made after that commencement.