

# Compensation Court Repeal Act 2002 No 23

[2002-23]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 July 2005 to 13 November 2016 (accessed 5 July 2024 at 2:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Repeal**

This Act was repealed by cl 2 of Sch 3 to the [Regulatory and Other Legislation \(Amendments and Repeals\) Act 2016 No 60](#) with effect from 14.11.2016.

### 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 Repeal Act 2002 No 23



New South Wales

An Act to repeal the *Compensation Court Act 1984* and abolish the Compensation Court, and to transfer the Compensation Court's jurisdiction to the Workers Compensation Commission or the District Court; and for other purposes.

## 1 Name of Act

This Act is the *Compensation Court Repeal Act 2002*.

## 2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) An amendment set out in Schedule 1 commences:
  - (a) on 1 January 2004 unless the amendment is the subject of a proclamation under paragraph (b), or
  - (b) on a day appointed by proclamation of the Governor published in the Gazette before 1 January 2004.
- (3) Different days may be appointed under subsection (2) (b) for the commencement of different amendments.

## 3 Definitions

In this Act:

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

**Compensation Court Act** means the *Compensation Court Act 1984*.

**District Court** means the District Court of New South Wales established by the *District Court Act 1973*.

## 4 Repeal of Compensation Court Act

- (1) The Compensation Court Act is repealed on 1 January 2004.

(2) The Compensation Court is abolished on the repeal of the Compensation Court Act.

## **5 Compensation Court judges**

(1) On the repeal of the Compensation Court Act:

(a) a person holding office as a Judge (other than the Chief Judge) of the Compensation Court immediately before that repeal is by this section appointed as a Judge of the District Court, and

(b) a person holding office as an Acting Judge of the Compensation Court immediately before that repeal is by this section appointed as an Acting Judge of the District Court for the time that is the remainder of the time for which he or she was appointed an Acting Judge of the Compensation Court, as at that repeal.

(2) The Governor may issue an appropriate commission under the public seal of the State to a person who is appointed as a Judge of the District Court by subsection (1). The appointment is effective whether or not such a commission is issued.

(3) Nothing in this section prevents a person who holds office as a Judge of the Compensation Court from being appointed as a Judge of any other Court.

(4) Nothing in this section affects any entitlement of the Chief Judge of the Compensation Court arising under section 56 (Abolition of judicial office) of the [Constitution Act 1902](#).

## **6 Appointment of Acting Chief Judge**

(1) If there is a vacancy in the office of Chief Judge of the Compensation Court after the commencement of this section, the Governor may by commission under the public seal of the State appoint as Acting Chief Judge, for a term that expires not later than the repeal of the Compensation Court Act, a person who is qualified for appointment as a Judge of the Compensation Court.

(2) If such a vacancy occurs as a result of the retirement of the person holding office on the commencement of this section as Chief Judge of the Compensation Court, that person is entitled to be appointed as Acting Chief Judge and, if the person accepts appointment, is appointed by this section as Acting Chief Judge for a term that expires on the repeal of the Compensation Court Act.

(3) A person appointed as Acting Chief Judge by or under this section has and may exercise for the term of that appointment the functions and authorities of Chief Judge of the Compensation Court and is, for the purposes of the Compensation Court Act and any other Act, taken to be Chief Judge.

(4) An appointment of Acting Chief Judge by or under this section may be made even though the person appointed has reached the age of 72 years before the appointment is made (or will have reached that age before the appointment expires).

- (5) The Governor may issue an appropriate commission under the public seal of the State to a person who is appointed as Acting Chief Judge of the Compensation Court by this section. The appointment is effective whether or not such a commission is issued.
- (6) This section does not affect the provision of sections 11 and 11A of the Compensation Court Act with respect to the appointment of an Acting Chief Judge.

## **7 Proceedings pending before the Compensation Court**

- (1) Proceedings instituted in the Compensation Court and pending in that Court immediately before the repeal of the Compensation Court Act are transferred:
  - (a) to the District Court, except proceedings to which paragraph (b) applies, or
  - (b) to the Workers Compensation Commission (**the WCC**), in the case of proceedings concerning any matter arising under the Workers Compensation Acts (other than proceedings in respect of a coal miner matter within the meaning of those Acts).
- (2) Regulations under section 11 may contain provisions:
  - (a) exempting a class or classes of proceedings from transfer to the WCC by this section (with the result that proceedings so exempted are instead transferred to the District Court on the repeal of the Compensation Court Act), or
  - (b) of a savings or transitional nature consequent on the transfer of proceedings by this section.
- (3) The following provisions have effect when proceedings are transferred to the District Court or the WCC by this section:
  - (a) the Compensation Court ceases to have jurisdiction in respect of the proceedings,
  - (b) the proceedings are taken to be proceedings instituted in the District Court or the WCC (as appropriate) and are to be heard and determined accordingly,
  - (c) an order or award of the Compensation Court in the proceedings is taken to be an order or award of the District Court or the WCC (as appropriate).
- (4) When proceedings are transferred to the District Court constituted by the Judge who, as a Judge of the Compensation Court, was hearing the proceedings before their transfer, the proceedings are to continue and be heard, determined and finalised by that Judge in the District Court as if any hearing, finding or decision in the proceedings in the Compensation Court had been a hearing, finding or decision in the proceedings in the District Court.
- (5) For the purposes of the hearing and determination of proceedings by the District Court pursuant to this section, the District Court has the same jurisdiction as the Compensation Court had immediately before the repeal of the Compensation Court

Act to examine, hear and determine matters.

- (6) The jurisdiction of the District Court under this section is subject to the same limitations and restrictions as the jurisdiction of the Compensation Court was subject to immediately before the repeal of the Compensation Court Act.
- (7) In this section:

**Workers Compensation Acts** means the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*.

## 8 Service and seniority of Judges

- (1) If the Chief Judge of the Compensation Court is appointed as a judge of the Supreme Court, the judge is to have seniority, rank and precedence as a judge of the Supreme Court as if the date of his or her commission as a judge of the Supreme Court were:
- (a) the date of his or her commission as Chief Judge of the Compensation Court, unless paragraph (b) applies, or
- (b) the date of his or her original commission as a judge of the Supreme Court if the judge was a judge of the Supreme Court immediately before being appointed as Chief Judge of the Compensation Court.
- (2) If a Judge of the Compensation Court is appointed as a judge of the District Court, the judge is to have seniority, rank and precedence as a judge of the District Court as if the date of his or her commission as a judge of the District Court were the date of his or her commission as a judge of the Compensation Court.
- (3) If the Chief Judge of the Compensation Court is appointed as a judge of the Supreme Court, the Chief Judge's service as a Judge of the Compensation Court is to be reckoned for all purposes as service as a Judge of the Supreme Court.
- (4) Service as a Judge of the Compensation Court is to be reckoned for all purposes as service as a Judge of the District Court in the case of a Judge who is appointed as a Judge of the District Court.

## 9 Commissioners and acting commissioners of the Compensation Court

- (1) A person who held office as a commissioner or acting commissioner of the Compensation Court immediately before the repeal of the Compensation Court Act ceases to hold that office on that repeal.
- (2) A person who ceases to hold office as a commissioner or acting commissioner pursuant to this section is not entitled to any remuneration or compensation because of the loss of that office, except compensation for loss of remuneration as provided by this section.

- (3) Compensation for loss of remuneration is to be as determined by the Statutory and Other Offices Remuneration Tribunal. The maximum compensation payable to a person is an amount equal to the person's gross remuneration for the period of 38 weeks at the rate at which it was payable immediately before the person ceased to hold office.
- (4) No compensation for loss of remuneration is payable to a person under this section if, before the repeal of the Compensation Court Act, the person has accepted an offer of employment in the public sector or engagement in the public sector (within the meaning of Part 8 of the *Public Sector Management Act 1988*).

## **10 Medical referees**

On the repeal of the Compensation Court Act, a person holding office as a medical referee under that Act ceases to hold that office on that repeal.

## **11 Savings and transitional regulations**

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act 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.

## **12 (Repealed)**

## **Schedule 1 (Repealed)**