

Safety, Return to Work and Support Board Act 2012 No 54

[2012-54]



New South Wales

Status Information

Currency of version

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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**

The Act was repealed by sec 31 of the [State Insurance and Care Governance Act 2015 No 19](#) with effect from 1.9.2015.

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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Safety, Return to Work and Support Board Act 2012 No 54



New South Wales

An Act to establish the Safety, Return to Work and Support Board for the purposes of consolidating the governance arrangements for the WorkCover Authority, the Motor Accidents Authority and the Lifetime Care and Support Authority; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Safety, Return to Work and Support Board Act 2012*.

2 Commencement

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

3 Definitions

(1) In this Act:

advisory committee means an advisory committee established by the Minister under Part 3.

Board means the Safety, Return to Work and Support Board established under section 4.

Chief Executive Officer means the Chief Executive Officer of Safety, Return to Work and Support holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

compensation and other related legislation means any of the following:

- (a) workers compensation legislation within the meaning of the *Workplace Injury Management and Workers Compensation Act 1998*,
- (b) *Motor Accidents Compensation Act 1999* and *Motor Accidents Act 1988*,
- (c) *Motor Accidents (Lifetime Care and Support) Act 2006*,

(d) *Sporting Injuries Insurance Act 1978*.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

member means a member of the Board.

relevant authority means any of the following:

- (a) WorkCover Authority,
- (b) Motor Accidents Authority,
- (c) Lifetime Care and Support Authority.

(2) Notes included in this Act do not form part of this Act.

Part 2 Management of relevant authorities

Division 1 Safety, Return to Work and Support Board

4 Establishment and composition of Board

- (1) There is to be a Safety, Return to Work and Support Board.
- (2) The Board is to consist of 7 members, being:
 - (a) the Chief Executive Officer, and
 - (b) 6 members appointed by the Governor on the recommendation of the Minister.
- (3) A person may not be recommended for appointment unless the person has skills and experience in any one or more of the following areas, namely, insurance, finance, investment, law, health, marketing, communications, work health and safety, injury prevention or management, return to work programs and disability services.
- (4) Schedule 1 contains ancillary provisions relating to the members and procedure of the Board.

5 General functions of Board

- (1) The Board has the following functions:
 - (a) to determine the general policies and strategic direction of each relevant authority,
 - (b) to oversee the performance of each relevant authority,
 - (c) to advise the Minister and the Chief Executive Officer on any matter relating to the relevant authorities or arising under the compensation and other related

legislation, at the request of the Minister or the Chief Executive Officer or on its own initiative,

(d) such other functions as are conferred or imposed on it by or under this or any other Act.

(2) In exercising its functions in relation to a relevant authority, the Board is:

(a) to ensure, as far as practicable, that the activities of the relevant authority are carried out properly and efficiently, and

(b) to have regard to the objects (if any) of the compensation and other related legislation under which the authority is constituted.

6 Board may determine investment policies for certain funds

(1) The Board has the function of determining investment policies for the investment of the following funds:

(a) the Workers Compensation Insurance Fund established under section 154D of the *Workers Compensation Act 1987*,

(b) the Insurers' Guarantee Fund established under section 227 of the *Workers Compensation Act 1987*,

(c) the Terrorism Re-insurance Fund established under section 239AE of the *Workers Compensation Act 1987*,

(d) the Nominal Defendant's Fund established under section 40 of the *Motor Accidents Compensation Act 1999*,

(e) the Lifetime Care and Support Authority Fund established under section 48 of the *Motor Accidents (Lifetime Care and Support) Act 2006*,

(f) the Sporting Injuries Fund established under section 11 of the *Sporting Injuries Insurance Act 1978*,

(g) the Workers' Compensation (Dust Diseases) Fund constituted under the *Workers' Compensation (Dust Diseases) Act 1942*.

(2) The Board is to report to the Minister on the investment performance of each such fund.

7 Investment of funds

(1) The Board may establish one or more funds (a **common fund**) for the purposes of the investment of any of the funds referred to in section 6 (a **relevant fund**). Any such common fund is to be administered by the Board.

- (2) The returns (including any negative returns) resulting from the investment in a common fund of money that was made available from a relevant fund are to be distributed to that relevant fund only.
- (3) This section does not limit the operation of section 6 or the provisions of the compensation and other related legislation under which a relevant fund is established.

8 Committees of the Board

- (1) The Board may establish committees to assist it in connection with the exercise of any of its functions.
- (2) Without limiting the generality of subsection (1), the Board may establish a committee to advise it on matters arising under the *Sporting Injuries Insurance Act 1978*.
- (3) A committee of the Board must be chaired by a member. It does not matter that some or all of the other members of a committee are not members of the Board.
- (4) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.
- (5) The Board may delegate to a committee any of the functions of the Board, other than this power of delegation.

Division 2 Chief Executive Officer

9 Chief Executive Officer of Safety, Return to Work and Support

- (1) The affairs of each relevant authority are to be managed and controlled by the Chief Executive Officer.
- (2) Any act, matter or thing done in the name of, or on behalf of, a relevant authority by the Chief Executive Officer is taken to have been done by the relevant authority.
- (3) This section is subject to Division 1 and to the compensation and other related legislation.

Note—

Relevant authorities are generally subject to Ministerial control or direction under their respective legislation.

Part 3 Advisory committees

10 Establishment of advisory committees

- (1) The Minister may:
 - (a) establish advisory committees consisting of such number of members as the Minister thinks fit, and

- (b) confer on any such advisory committee such functions as the Minister determines.
- (2) The functions of an advisory committee may include investigating and reporting to the Minister on specific matters arising under or in connection with the compensation and other related legislation or any other Act under which a relevant authority exercises functions.
- (3) A person may be appointed as a member of an advisory committee only if the Minister is satisfied that the person has skills and experience that are relevant to the functions of the committee.
- (4) The Minister may determine the term of office and remuneration of members and the procedure of an advisory committee.

Part 4 Miscellaneous

11 Appointment of Parliamentary Committee

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council is to be designated by resolution of the Legislative Council as the designated committee for the purposes of this section.
- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the exercise of the functions of each relevant authority under the compensation and other related legislation.
- (3) In this section, **relevant authority** includes the Workers' Compensation (Dust Diseases) Board.

12 Protection from personal liability

- (1) In this section:
- body** means a relevant authority, the Board, a committee of the Board or an advisory committee.
- (2) A matter or thing done by a body, by a member of a body or by a person acting under the direction of a body does not, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member of a body or a person so acting personally to any action, liability, claim or demand.

13 Regulations

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.

14 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 Members and procedure of Board

1 Definition

In this Schedule:

appointed member means a member other than the Chief Executive Officer.

2 Chairperson and Deputy Chairperson

- (1) Of the appointed members, 2 are (in and by their respective instruments of appointment or in and by other instruments executed by the Governor) to be appointed as Chairperson and Deputy Chairperson of the Board respectively.
- (2) A person may only be appointed as Chairperson if the Minister is satisfied that the person has skills and experience relevant to the Board's functions.
- (3) The Governor may at any time remove an appointed member from the office of Chairperson or Deputy Chairperson.
- (4) A person holding the office of Chairperson or Deputy Chairperson vacates that office if the person:
 - (a) is removed from that office by the Governor, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

3 Term of office of appointed members

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

4 Remuneration

An appointed member is entitled to be paid such remuneration (including travelling and

subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Vacancy in office of appointed member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under this clause or Chapter 5 of the *Public Sector Employment and Management Act 2002*, or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may at any time remove an appointed member from office.

6 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

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

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:

(a) be present during any deliberation of the Board with respect to the matter, or

(b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

(a) be present during any deliberation of the Board for the purpose of making the determination, or

(b) take part in the making by the Board of the determination.

(6) A contravention of this clause does not invalidate any decision of the Board.

7 Filling of vacancy in office of appointed member

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

8 Effect of certain other Acts

(1) Chapter 1A of the *Public Sector Employment and Management Act 2002* does not apply to or in respect of the appointment of an appointed member.

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and

also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

9 General procedure

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

10 Quorum

The quorum for a meeting of the Board is 4 members.

11 Presiding member

- (1) The Chairperson of the Board or (in the absence of the Chairperson) the Deputy Chairperson is to preside at a meeting of the Board.
- (2) In the absence of both the Chairperson and the Deputy Chairperson at a meeting of the Board, another member chosen by the members present at the meeting is to preside at the meeting.
- (3) The person presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

12 Voting

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

13 Transaction of business outside meetings or by telephone

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board 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 Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an

ordinary meeting of the Board.

- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

14 First meeting

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

Schedule 2 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends 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 on the NSW legislation website, 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 Abolition of existing boards

- (1) In this clause:

existing board means any of the following as established immediately before the relevant date:

- (a) the Board of Directors of the WorkCover Authority,
- (b) the Board of Directors of the Motor Accidents Authority,

(c) the Board of Directors of the Lifetime Care and Support Authority.

relevant date means the date on which section 4 commences.

(2) On the relevant date:

(a) each existing board is abolished, and

(b) each person appointed as a director of an existing board ceases to hold office as such a director.

(3) A person who ceases to hold office as a director of an existing board is not entitled to any remuneration or compensation because of the loss of that office.

3 Abolition of various other bodies

(1) In this clause:

former body means any of the following as established immediately before the relevant date:

(a) the Workers Compensation and Work Health and Safety Council,

(b) an Industry Reference Group established under Part 5 of Chapter 2 of the [Workplace Injury Management and Workers Compensation Act 1998](#),

(c) the Motor Accidents Council,

(d) the Lifetime Care and Support Advisory Council.

relevant date means the date on which section 10 commences.

(2) On the relevant date:

(a) each former body is abolished, and

(b) each person holding office as a member of a former body ceases to hold office as such a member.

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

Schedule 3 (Repealed)