



Queensland

# **Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007**

**Act No. 52 of 2007**





Queensland

# Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	8
2	Commencement . . . . .	8
<b>Part 2</b>	<b>Amendment of Workers' Compensation And Rehabilitation Act 2003</b>	
3	Act amended in pt 2 . . . . .	8
4	Amendment of s 5 (Workers' compensation scheme) . . . . .	8
5	Amendment of s 41 (Meaning of rehabilitation and return to work coordinator) . . . . .	9
6	Amendment of s 50 (When an employer contravenes the general obligation to insure) . . . . .	9
7	Amendment of s 134 (Decision about application for compensation) . . . . .	9
8	Amendment of s 150 (Total incapacity—workers whose employment is governed by an industrial instrument) . . . . .	9
9	Amendment of s 151 (Total incapacity—workers whose employment is not governed by industrial instrument) . . . . .	10
10	Amendment of s 152 (Total incapacity—certain contract workers) . . . . .	10
11	Amendment of s 157 (Total incapacity) . . . . .	11
12	Amendment of s 159 (Total incapacity) . . . . .	11
13	Amendment of s 160 (Total incapacity—reference about impairment to medical assessment tribunal) . . . . .	12
14	Amendment of s 174 (Calculation of redemption payment) . . . . .	12
15	Insertion of new ch 3, pt 10, div 1A . . . . .	13
	Division 1A Advances on lump sum compensation	
	178A Advances on account . . . . .	13

*Workers' Compensation and Rehabilitation and Other No. 52, 2007  
Acts Amendment Act 2007*

---

16	Amendment s 192 (Additional lump sum compensation for certain workers) . . . . .	13
17	Amendment of s 194 (Application and object of pt 11) . . . . .	14
18	Omission of s 203 (Reduction of amount payable on death) . . . . .	14
19	Replacement of ch 3, pt 13 hdg . . . . .	14
20	Insertion of new s 207AA . . . . .	14
	207AA Definition for ch 3A . . . . .	14
21	Insertion of new s 235A . . . . .	15
	235A Date of doctor's consultation taken to be date of injury . . . . .	15
22	Amendment of s 245 (Claimant with more than 1 injury from an event) . . . . .	15
23	Omission of s 246 (Claimant may ask for injury to be assessed for permanent impairment) . . . . .	15
24	Relocation and renumbering of s 272 (Insurer's charge on damages for compensation paid) . . . . .	15
25	Amendment of s 330 (General statement of Authority's functions) . . . . .	15
26	Amendment of s 364 (Funds and accounts) . . . . .	16
27	Amendment of s 479 (Amounts payable by Authority on Minister's instruction) . . . . .	16
28	Amendment of s 586 (Approval of forms) . . . . .	16
29	Insertion of new ch 21 . . . . .	16
	Chapter 21 Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007	
	648 Definition for ch 21 . . . . .	17
	649 Decision about application for compensation . . . . .	17
	650 Weekly payment for total incapacity . . . . .	17
	651 Additional lump sum compensation for certain workers . . . . .	17
	652 Reduction of amount payable on death . . . . .	18
	653 More than 1 injury from an event . . . . .	18
	654 Compensation claim costs and third parties . . . . .	18
<b>Part 3</b>	<b>Amendment of Electrical Safety Act 2002</b>	
30	Act amended in pt 3 . . . . .	18
31	Amendment of s 12 (Meaning of dangerous electrical event) . . . . .	18
32	Amendment of s 44 (Code of practice about discharging electrical safety obligation) . . . . .	19

*Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007* No. 52, 2007

---

33	Amendment of s 56 (Requirement for electrical contractor licence) . . . . .	19
34	Insertion of new ss 57AA–57AC . . . . .	20
	57AA Employer or self-employed person must ensure workers are appropriately licensed . . . . .	20
	57AB Employers and self-employed persons must keep register of licensed workers . . . . .	20
	57AC Licence holder engaged by employer or self-employed person must notify particular changes . . . . .	21
35	Amendment of s 64A (Chief executive may ask for further information or documents from licence holder) . . . . .	22
36	Amendment of s 109 (Electrical licence issued by chief executive) . . . . .	22
37	Amendment of s 110 (External licence) . . . . .	24
38	Replacement of ss 111 and 112 . . . . .	24
	111 Electrical contractor licence issued by chief executive but no longer in force . . . . .	24
	112 Penalties . . . . .	25
39	Amendment of s 116 (Disciplinary hearing notice) . . . . .	25
40	Amendment of s 120 (Licensing committee to keep record of disciplinary hearing) . . . . .	26
41	Insertion of new s 136A . . . . .	26
	136A Chief executive may ask for further information or documents from accredited auditor . . . . .	26
42	Amendment of s 146 (Inspector's power to seize unsafe electrical equipment) . . . . .	27
43	Insertion of new s 146A . . . . .	27
	146A Inspector's power to seize other unsafe electrical equipment . . . . .	28
44	Amendment of s 150 (Forfeiture of seized thing) . . . . .	28
45	Amendment of s 151 (Return of seized thing) . . . . .	28
46	Insertion of new s 151A . . . . .	28
	151A Returning seized electrical equipment that is not electrically safe . . . . .	29
47	Insertion of new ss 205A and 205B . . . . .	29
	205A Confidentiality . . . . .	30
	205B Giving information to corresponding entity . . . . .	30
48	Amendment of s 210 (Regulation-making power) . . . . .	32
49	Amendment of sch 2 (Dictionary) . . . . .	32

*Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007* No. 52, 2007

---

<b>Part 4</b>	<b>Amendment of Industrial Relations Act 1999</b>	
50	Act amended in pt 4 . . . . .	32
51	Amendment of s 366 (Time and wages record—industrial instrument employees) . . . . .	33
52	Amendment of s 367 (Time and wages record—non-industrial instrument employees) . . . . .	33
<b>Part 5</b>	<b>Amendment of Workplace Health And Safety Act 1995</b>	
53	Act amended in pt 5 . . . . .	33
54	Amendment of s 12A (Who is the client for construction work) . . . . .	34
55	Amendment of s 12B (Who is the project manager for construction work) . . . . .	34
56	Amendment of s 13 (Who is the principal contractor for construction work) . . . . .	34
57	Amendment of s 30B (Obligations of designers of structures) . . . . .	35
58	Amendment of s 38 (Regulations) . . . . .	35
59	Amendment of s 41 (Code of practice about managing exposure to risks) . . . . .	36
60	Insertion of new pt 6, divs 8–11 . . . . .	36
	Division 8          Licensing Review Committee	
	64A          Establishment of licensing review committee . . . . .	36
	64B          Functions of licensing review committee . . . . .	37
	Division 9          Provisions about membership of licensing review committee	
	64C          Membership of licensing review committee . . . . .	38
	64D          Duration of appointment to licensing review committee . . . . .	38
	64E          Leave of absence . . . . .	39
	64F          Conditions of appointment . . . . .	39
	Division 10        Conduct of licensing review committee's proceedings generally	
	64G          Times of board committee meetings . . . . .	39
	64H          Conduct of proceedings . . . . .	40
	64I          Disclosure of interests . . . . .	41
	64J          Minutes . . . . .	41
	64K          Annual report . . . . .	41
	Division 11        Provisions about disciplinary action by licensing review committee	
	Subdivision 1     Grounds for disciplinary action	
	64L          Grounds for disciplinary action . . . . .	42

*Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007* No. 52, 2007

---

	Subdivision 2	Types of disciplinary action	
	64M	Purpose of sdiv 2 . . . . .	42
	64N	Holders of occupational licences . . . . .	42
	64O	Previous holders of occupational licences . . . . .	43
	64P	Holders of corresponding occupational licences . . . . .	44
	64Q	Previous holders of corresponding occupational licences . . . . .	45
	64R	Penalties . . . . .	45
	Subdivision 3	Procedures for taking disciplinary action	
	64S	Application of sdiv 3 . . . . .	46
	64T	Preliminary notice . . . . .	46
	64U	Consideration before disciplinary hearing . . . . .	47
	64V	Disciplinary hearing notice . . . . .	48
	64W	Disciplinary hearing . . . . .	49
	64X	Disciplinary hearing requirements . . . . .	49
	64Y	Evidence and findings in other proceedings may be received or adopted . . . . .	50
	64Z	Licensing review committee to keep record of disciplinary hearing . . . . .	51
	64ZA	Decision about taking disciplinary action . . . . .	51
61		Amendment of s 122 (Power to require production of certain documents) . . . . .	52
62		Amendment of s 147A (Definitions for pt 11) . . . . .	52
63		Amendment of pt 11, div 2 hdg . . . . .	53
64		Amendment of s 149 (Procedure for review) . . . . .	53
65		Amendment of s 150 (Review of decision) . . . . .	53
66		Amendment of s 161 (Evidentiary aids) . . . . .	54
67		Amendment of s 171 (False or misleading statements) . . . . .	54
68		Amendment of s 172 (False, misleading or incomplete documents) . . . . .	54
69		Amendment of s 183 (Protection from liability—officials) . . . . .	54
70		Amendment of s 184A (Appointment of principal contractors) . . . . .	55
71		Amendment of s 185C (Confidentiality of particular information) . . . . .	55
72		Insertion of new s 185D . . . . .	56
	185D	Giving information to corresponding entity . . . . .	56
73		Insertion of new pt 17, div 4 . . . . .	57

*Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007* No. 52, 2007

---

	Division 4	Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007	
	193	Existing reviews of relevant licensing decisions . . . . .	58
	194	Grounds for disciplinary action . . . . .	58
74		Amendment of sch 3 (Dictionary) . . . . .	58





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# **Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007**

## **Act No. 52 of 2007**

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***An Act to amend the *Workers' Compensation and Rehabilitation Act 2003*, the *Electrical Safety Act 2002*, the *Industrial Relations Act 1999* and the *Workplace Health and Safety Act 1995****

**[Assented to 9 November 2007]**

**The Parliament of Queensland enacts—**

## **Part 1                      Preliminary**

### **1            Short title**

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007*.

### **2            Commencement**

- (1) The provisions of this Act, other than sections 34, 47 and 61, commence on 1 January 2008.
- (2) Sections 34 and 47 commence on 1 March 2008.
- (3) Section 61 commences on a day to be fixed by proclamation.

## **Part 2                      Amendment of Workers' Compensation And Rehabilitation Act 2003**

### **3            Act amended in pt 2**

This part amends the *Workers' Compensation and Rehabilitation Act 2003*.

### **4            Amendment of s 5 (Workers' compensation scheme)**

Section 5(4)(a)(ii), 'premium'—  
*omit, insert—*  
'cost'.

**5 Amendment of s 41 (Meaning of *rehabilitation and return to work coordinator*)**

Section 41(a), 'becoming'—  
*omit.*

**6 Amendment of s 50 (When an employer contravenes the general obligation to insure)**

(1) Section 50(b), 'by—'

*omit, insert—*

'by doing both of the following—'.

(2) Section 50(b)(i), '; and'—

*omit, insert—*

','.

**7 Amendment of s 134 (Decision about application for compensation)**

Section 134(2)—

*omit, insert—*

'(2) The insurer must make a decision on the application within 20 business days after the application is made.'

**8 Amendment of s 150 (Total incapacity—workers whose employment is governed by an industrial instrument)**

(1) Section 150(1)(b), '52 weeks'—

*omit, insert—*

'2 years'.

(2) Section 150(1)(c)—

*omit.*

(3) Section 150(1)(d)(i)(A) and (B)—

*omit, insert—*

'(A) 75% of the worker's NWE;

(B) 70% of QOTE; or'.

- (4) Section 150(1)(d)—  
*renumber* as section 150(1)(c).
- (5) Section 150(2), ', (c) or (d)'—  
*omit, insert—*  
'or (c)'.

**9 Amendment of s 151 (Total incapacity—workers whose employment is not governed by industrial instrument)**

- (1) Section 151(1)(b), '52 weeks'—  
*omit, insert—*  
'2 years'.
- (2) Section 151(1)(c)—  
*omit.*
- (3) Section 151(1)(d)(i)(A) and (B)—  
*omit, insert—*  
'(A) 75% of the worker's NWE;  
(B) 70% of QOTE; or'.
- (4) Section 151(1)(d)—  
*renumber* as section 151(1)(c).

**10 Amendment of s 152 (Total incapacity—certain contract workers)**

- (1) Section 152(1)(b), '52 weeks'—  
*omit, insert—*  
'2 years'.
- (2) Section 152(1)(c)—  
*omit.*
- (3) Section 152(1)(d)(i)(A) and (B)—

*omit, insert—*

‘(A) 75% of the worker’s NWE;

(B) 70% of QOTE; or’.

(4) Section 152(1)(d)—

*renumber* as section 152(1)(c).

(5) Section 152(2), ‘, (c) or (d)’—

*omit, insert—*

‘or (c)’.

## **11 Amendment of s 157 (Total incapacity)**

(1) Section 157(3), ‘60%’—

*omit, insert—*

‘70%’.

(2) Section 157(5)(b), ‘52 weeks’—

*omit, insert—*

‘2 years’.

(3) Section 157(5)(c)—

*omit.*

(4) Section 157(5)(d)(i)(A) and (B)—

*omit, insert—*

‘(A) 75% of the person’s NWE;

(B) 70% of QOTE; or’.

(5) Section 157(5)(d)—

*renumber* as section 157(5)(c).

## **12 Amendment of s 159 (Total incapacity)**

(1) Section 159(1)(b), ‘52 weeks’—

*omit, insert—*

‘2 years’.

- (2) Section 159(1)(c)—  
*omit.*
- (3) Section 159(1)(d)(i)(A) and (B)—  
*omit, insert—*
- ‘(A) 75% of the amount stated in the person’s  
contract of insurance;  
(B) 70% of QOTE; or’.
- (4) Section 159(1)(d)—  
*renumber* as section 159(1)(c).
- (5) Section 159(2), ‘, (b)(ii) and (c)(ii)’—  
*omit, insert—*  
‘and (b)(ii)’.
- (6) Section 159(3), ‘,(c) or (d)’—  
*omit, insert—*  
‘or (c)’.

**13 Amendment of s 160 (Total incapacity—reference about impairment to medical assessment tribunal)**

Section 160(1)(a) and (b)—

*omit, insert—*

- ‘(a) for section 150(1)(c)(i), 151(1)(c)(i), 152(1)(c)(i), 157(5)(c)(i) or 159(1)(c)(i), an insurer and a worker or a person can not agree that the injury could result in a WRI of more than 15%; or
- (b) for section 150(1)(c)(ii), 151(1)(c)(ii), 152(1)(c)(ii), 157(5)(c)(ii) or 159(1)(c)(ii), an insurer and a worker or a person can not agree that the injury could result in a WRI of 15% or less.’.

**14 Amendment of s 174 (Calculation of redemption payment)**

Section 174(2), definition *Q*, ‘60%’—

*omit, insert—*

'70%'.

## **15 Insertion of new ch 3, pt 10, div 1A**

After section 178—

*insert—*

### **'Division 1A Advances on lump sum compensation**

#### **'178A Advances on account**

- '(1) This section applies if an insurer is satisfied that the worker—
  - (a) has an entitlement to lump sum compensation for an injury; and
  - (b) the worker is experiencing financial hardship.
- '(2) The insurer may from time to time advance to the worker amounts on account of lump sum compensation as it considers appropriate in the circumstances.
- '(3) Acceptance of the amount on account of lump sum compensation by the worker does not constitute an election by the worker not to seek damages for the injury.'

## **16 Amendment s 192 (Additional lump sum compensation for certain workers)**

- (1) Section 192(1), '50%'—

*omit, insert—*

'30%'.

- (2) Section 192(2), '\$182620'—

*omit, insert—*

'\$218400'.

**17 Amendment of s 194 (Application and object of pt 11)**

(1) Section 194(2)—

*renumber* as section 194(3).

(2) Section 194—

*insert*—

‘(2) However, this part does not apply if—

(a) a worker dies because of a latent onset injury that is a terminal condition; and

(b) the worker had received a payment of lump sum compensation for the latent onset injury.’.

**18 Omission of s 203 (Reduction of amount payable on death)**

Section 203—

*omit*.

**19 Replacement of ch 3, pt 13 hdg**

Chapter 3, part 13, heading—

*omit, insert*—

**‘Chapter 3A Compensation claim costs’.**

**20 Insertion of new s 207AA**

Chapter 3A, as amended, before section 207A—

*insert*—

**‘207AA Definition for ch 3A**

‘In this chapter—

‘*worker* includes a person to whom compensation is payable under this Act for injury.’.



**21 Insertion of new s 235A**

After section 235—

*insert—*

**'235A Date of doctor's consultation taken to be date of injury**

'(1) For the application of this chapter in relation to an injury sustained by a worker that happens over a period, the date on which the worker first consulted a doctor about the injury is taken to be the date of the worker's injury.

'(2) This section does not apply to a latent onset injury.

'(3) This section does not limit section 236.'

**22 Amendment of s 245 (Claimant with more than 1 injury from an event)**

Section 245(1), 'need not'—

*omit, insert—*

'can not'.

**23 Omission of s 246 (Claimant may ask for injury to be assessed for permanent impairment)**

Section 246—

*omit.*

**24 Relocation and renumbering of s 272 (Insurer's charge on damages for compensation paid)**

Section 272—

*relocate and renumber*, in chapter 3A, as section 207B.

**25 Amendment of s 330 (General statement of Authority's functions)**

(1) Section 330(2)(m)—

*renumber* as section 330(2)(n).

(2) Section 330(2)—

*insert—*

‘(m) to administer scheme-wide rehabilitation and return to work programs;’.

**26 Amendment of s 364 (Funds and accounts)**

(1) Section 364(3)(e) and (f)—

*renumber* as section 364(f) and (g).

(2) Section 364(3)—

*insert—*

‘(e) amounts for scheme-wide rehabilitation and return to work programs for workers; or’.

**27 Amendment of s 479 (Amounts payable by Authority on Minister's instruction)**

Section 479(1)—

*insert—*

‘(d) scheme-wide rehabilitation and return to work programs for workers.’.

**28 Amendment of s 586 (Approval of forms)**

Section 586(1), ‘for chapter 2, parts 2 and 3’ and footnote—

*omit, insert—*

‘in relation to contracts of insurance’.

**29 Insertion of new ch 21**

After section 647—

*insert—*

## **'Chapter 21 Transitional provisions for Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007**

### **'648 Definition for ch 21**

'In this chapter—

*amending Act* means the *Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007*.

### **'649 Decision about application for compensation**

'Section 134, as in force immediately before 1 January 2008, continues to apply to an application for compensation made before 1 January 2008 as if the amending Act had not been enacted.

### **'650 Weekly payment for total incapacity**

'The provisions of chapter 3, part 9, division 4, as in force immediately before 1 January 2008, continue to apply in relation to an injury sustained by a worker before 1 January 2008 as if the amending Act had not been enacted.

### **'651 Additional lump sum compensation for certain workers**

'Section 192, as in force immediately before 1 January 2008, continues to apply in relation to an injury sustained by a worker before 1 January 2008 as if the amending Act had not been enacted.

**'652 Reduction of amount payable on death**

'The amendment of this Act made by sections 17 and 18 of the amending Act applies only in relation to an injury sustained by a worker, including an injury sustained before 1 January 2008, that results in the death of a worker on or after 1 January 2008.

**'653 More than 1 injury from an event**

Sections 245 and 246, as in force immediately before 1 January 2008, continue to apply in relation to an injury sustained by a worker before 1 January 2008 as if the amending Act had not been enacted.

**'654 Compensation claim costs and third parties**

Chapter 3, part 13, as in force immediately before 1 January 2008, continues to apply in relation to an injury sustained by a worker before 1 January 2008 as if the amending Act had not been enacted.'

## **Part 3    Amendment of Electrical Safety Act 2002**

**30            Act amended in pt 3**

This part amends the *Electrical Safety Act 2002*.

**31            Amendment of s 12 (Meaning of *dangerous electrical event*)**

Section 12(b), after 'existence'—

*insert—*

'of both'.

**32 Amendment of s 44 (Code of practice about discharging electrical safety obligation)**

(1) Section 44(2), (3) and (6)—

*omit.*

(2) Section 44(4), after 'practice', first mention—

*insert—*

'as in force from time to time'.

(3) Section 44(4), as amended, and (5)—

*renumber* as section 44(6) and (8).

(4) Section 44—

*insert—*

'(2) A code of practice, or an instrument amending or repealing a code of practice, has no effect unless the Minister gives notice of its making.

'(3) A notice under subsection (2) is subordinate legislation.

'(4) A code of practice, or an instrument amending or repealing a code of practice, commences on the later of the following—

(a) the day the notice under subsection (2) commences;

(b) the day the code or instrument provides that it commences.

'(5) A code of practice expires 10 years after its commencement.

'(7) A code of practice may be made available in written or electronic form.'

**33 Amendment of s 56 (Requirement for electrical contractor licence)**

(1) Section 56(3)(b), 'building'—

*omit.*

(2) Section 56(3)(b), 'the work'—

*omit, insert—*

'the electrical work'.

### **34 Insertion of new ss 57AA–57AC**

Part 4, division 1—

*insert—*

#### **'57AA Employer or self-employed person must ensure workers are appropriately licensed**

'(1) This section applies if an employer or self-employed person conducts a business or undertaking that includes the performance of electrical work.

'(2) The employer or self-employed person must ensure—

(a) the electrical work is performed by the holder of an electrical work licence that authorises the performance of the work; and

(b) any supervision of the electrical work is carried out by the holder of an electrical work licence that authorises the performance of the work.

Maximum penalty—400 penalty units.

'(3) Subsection (2) does not apply if the electrical work is performed or supervised by a person who, under section 55, is not required to hold an electrical work licence for the purpose of performing or supervising the work.

#### **'57AB Employers and self-employed persons must keep register of licensed workers**

'(1) This section applies if—

(a) an employer or self-employed person (the *relevant employer*) conducts a business or undertaking that includes the performance of electrical work; and

(b) the relevant employer engages other persons to perform or supervise the electrical work.

'(2) The relevant employer must—

(a) keep a register of licensed workers in a way that complies with subsection (3); and

- (b) if asked by an inspector, make the register of licensed workers available for immediate inspection by the inspector.

Maximum penalty—100 penalty units.

- ‘(3) The register of licensed workers kept by the relevant employer must—
  - (a) include the prescribed details for each holder of an electrical work licence engaged by the relevant employer to perform or supervise electrical work—
    - (i) while the holder is engaged by the employer to perform or supervise electrical work; or
    - (ii) if the holder ceases to be engaged by the employer to perform or supervise electrical work—for at least 5 years after the holder ceases to be engaged by the employer; and
  - (b) be updated within 7 days after the relevant employer is notified, under section 57AC, of a change in any of the prescribed details, for the holder of an electrical work licence, included in the register; and
  - (c) include the date on which the prescribed details for the holder of an electrical work licence are included in the register or are updated.
- ‘(4) A register of licensed workers may be kept in electronic form.

**‘57AC Licence holder engaged by employer or self-employed person must notify particular changes**

- ‘(1) This section applies if the holder of an electrical work licence is engaged to perform or supervise electrical work for an employer or self-employed person (the *relevant employer*) who conducts a business or undertaking that includes the performance of electrical work.
- ‘(2) The holder must notify, in writing, the relevant employer if any of the following happens within 14 days after it happening—
  - (a) the electrical work licence held by the person—

- (i) is suspended or cancelled; or
- (ii) is surrendered; or
- (iii) expires and is not renewed; or
- (iv) is amended in a way that changes—
  - (A) the work or activities that are authorised to be performed under the licence; or
  - (B) the conditions or restrictions applying to the way work or activities may be performed under the licence;
- (b) the electrical work licence held by the holder is renewed or reinstated;
- (c) any other prescribed details for the holder change.

*Example for paragraph (c)—*

the holder's name changes

Maximum penalty—

- (a) for paragraph (a)—40 penalty units; or
- (b) for paragraph (b) or (c)—10 penalty units.’.

**35 Amendment of s 64A (Chief executive may ask for further information or documents from licence holder)**

Section 64A(1), after ‘given to’—

*insert—*

‘a person who is’.

**36 Amendment of s 109 (Electrical licence issued by chief executive)**

(1) Section 109(1)—

*insert—*

‘(ba) if the licence is an electrical work licence, disqualify the holder from being a qualified technical person for the holder of an electrical contractor licence—

- (i) for a period decided by the committee; or



*Workers' Compensation and Rehabilitation and Other Acts Amendment Act 2007* No. 52, 2007

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- (ii) until conditions decided by the committee are complied with; or
- (bb) disqualify the holder from holding an electrical contractor licence, electrical work licence, or both—
  - (i) for a period decided by the committee; or
  - (ii) until conditions decided by the committee are complied with; or

*Example of condition—*

a condition that the licence holder satisfactorily finish a stated training course or examination’.

- (2) Section 109(2)—

*renumber* as section 109(3).

- (3) Section 109—

*insert—*

- ‘(2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

*Example—*

The licensing committee may cancel the electrical contractor licence held by a person as well as impose a penalty of 10 penalty units on the person.’.

- (4) Section 109—

*insert—*

- ‘(4) If the holder is disqualified from holding an electrical licence because of disciplinary action—

- (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
- (b) the person can not be issued another electrical licence while the disqualification applies.

- ‘(5) In this section—

***qualified technical person*** has the meaning given by a regulation.’.

### **37 Amendment of s 110 (External licence)**

Section 110—

*insert—*

- ‘(2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the holder.

*Example—*

The licensing committee may limit the external licence recognition provision's application to the external licence held by a person as well as reprimand the person.’.

### **38 Replacement of ss 111 and 112**

Sections 111 and 112—

*omit, insert—*

### **‘111 Electrical contractor licence issued by chief executive but no longer in force**

- ‘(1) The licensing committee may take any of the following disciplinary actions against a person who was the holder of an electrical contractor licence when electrical work was performed, but who is no longer the holder of an electrical contractor licence—
- (a) require the person, at the person's own expense, to have the holder of an electrical contractor licence correct a fault or defect in the electrical work within the time and in the way stated by the committee;
  - (b) reprimand or caution the person;
  - (c) impose on the person a penalty of not more than 40 penalty units;
  - (d) disqualify the person from holding an electrical contractor licence, or electrical work licence, or both—
    - (i) for a period decided by the committee; or
    - (ii) until conditions decided by the committee are complied with.

*Example of condition—*

a condition that the person satisfactorily finish a stated training course or examination

- ‘(2) To remove any doubt, it is declared that when acting under subsection (1) the licensing committee may take more than 1 type of disciplinary action against the person.

*Example—*

The licensing committee may require the person to have the holder of an electrical contractor licence correct a fault or defect in the electrical work performed by the person as well as impose a penalty of 10 penalty units on the person.

- ‘(3) If a person is disqualified from holding an electrical licence because of disciplinary action—
- (a) an electrical licence held or previously held by the person can not be renewed or reinstated while the disqualification applies; and
  - (b) the person can not be issued another electrical licence while the disqualification applies.

## ‘112 Penalties

- ‘(1) A penalty may be imposed as disciplinary action in addition to the taking of other disciplinary action under this part against a person.
- ‘(2) If a penalty is imposed as disciplinary action and the person against whom it is imposed does not pay the penalty within the time allowed by the licensing committee, the committee may take further disciplinary action against the person for the ground for which the penalty was imposed.
- ‘(3) Without limiting subsection (2), a penalty imposed as disciplinary action may be recovered as a debt owing to the State by the person.’

## 39 Amendment of s 116 (Disciplinary hearing notice)

Section 116(1)—

*insert—*

- ‘(e) that—
- (i) the person is required to appear at the hearing; and
  - (ii) if the person appears at the hearing, the person may give information or make submissions to the committee at the hearing; and
- (f) that, if the person does not appear at the hearing—
- (i) the person may give information or make submissions to the committee in another way; and
  - (ii) the committee may act in the person’s absence, whether or not the person gives information or makes submissions.’.

**40 Amendment of s 120 (Licensing committee to keep record of disciplinary hearing)**

Section 120—

*insert—*

- ‘(3) In this section—
- evidence*, given to the licensing committee, includes information given and submissions made to the committee.’.

**41 Insertion of new s 136A**

Part 10, division 2—

*insert—*

**‘136A Chief executive may ask for further information or documents from accredited auditor**

- ‘(1) The chief executive may, by written notice given to a person who is an accredited auditor, require the person to give the chief executive, within a reasonable period of at least 21 days stated in the notice, information or a document the chief executive reasonably requires to satisfy the chief executive that the person—
- (a) continues to be appropriately qualified; or
  - (b) continues to satisfy the conditions of office.

*Examples of information—*

- the person has undertaken training in changes to relevant legislation
  - the person has conducted audits or other testing or assessments in relation to electrical safety
  - the person continues to hold the insurance required under a condition of office applying to the person
- ‘(2) The chief executive may, in the notice, require the person to verify the further information or document by statutory declaration.
- ‘(3) The person must comply with the notice, unless the person has a reasonable excuse.
- ‘(4) The chief executive may revoke the person’s appointment as an accredited auditor if the person fails, without reasonable excuse, to comply with the notice.
- ‘(5) Subsection (4) does not limit the operation of section 134.
- ‘(6) In this section—

*appropriately qualified*, for a person, means qualified for appointment as an accredited auditor because the person has the necessary expertise or experience.

*condition of office* means a condition on which an accredited auditor holds office.’.

**42 Amendment of s 146 (Inspector’s power to seize unsafe electrical equipment)**

Section 146, heading, after ‘equipment’—

*insert—*

**‘at an entered place’.**

**43 Insertion of new s 146A**

After section 146—

*insert—*

**'146A Inspector's power to seize other unsafe electrical equipment**

- '(1) This section applies if—
- (a) an inspector enters a place under this part; and
  - (b) the inspector takes electrical equipment at the place for analysis or testing under section 144(3)(c); and
  - (c) the results of the analysis or testing show that the equipment is not electrically safe.
- '(2) The inspector may seize the equipment.'

**44 Amendment of s 150 (Forfeiture of seized thing)**

Section 150—

*insert—*

- '(1A) Without limiting subsection (1), if a seized thing is electrical equipment, the thing is forfeited to the State if—
- (a) the inspector who seized the thing reasonably believes the thing is not electrically safe; and
  - (b) the owner of the thing does not require its return.'

**45 Amendment of s 151 (Return of seized thing)**

Section 151—

*insert—*

- '(3) This section does not apply to a seized thing if it is impracticable or would be unreasonable to return the thing given the thing's nature, condition and value.

*Example for subsection (3)—*

The seized thing is electrical equipment that has been destroyed or extensively damaged during analysis or testing conducted under the Act.'

**46 Insertion of new s 151A**

After section 151—

*insert—*

**'151A Returning seized electrical equipment that is not electrically safe**

- '(1) This section applies if—
- (a) an inspector has seized electrical equipment under this part; and
  - (b) the inspector reasonably believes the equipment is not electrically safe; and
  - (c) the equipment is not forfeited under section 150(1) or (1A).
- '(2) If the inspector returns the equipment to its owner, the inspector may, by written notice, require the owner to do 1 or more of the following to make the equipment electrically safe—
- (a) have the equipment repaired;
  - (b) have the equipment altered in a stated way;
  - (c) take other stated action in relation to the equipment that is reasonable in the circumstances, including, for example, to make it incapable of operation.

*Note—*

Section 55 provides for who may perform electrical work, including repair or alter electrical equipment.

- '(3) The owner must comply with the requirement unless the owner has a reasonable excuse for not complying.
- Maximum penalty—40 penalty units.
- '(4) For subsection (3), it is a reasonable excuse for the owner not complying with the requirement that the owner destroyed the equipment instead of complying with the requirement.'

**47 Insertion of new ss 205A and 205B**

After section 205—

*insert—*

### **'205A Confidentiality**

- '(1) This section applies to a person—
- (a) who is, or has been, the chief executive, an inspector, an accredited auditor or another person involved in the administration of this Act; and
  - (b) who, in the course of administering this Act or because of an opportunity provided by involvement in administering this Act, has—
    - (i) acquired information about someone else; or
    - (ii) gained access to a document about someone else.
- '(2) The person must not do either of the following—
- (a) disclose to anyone else—
    - (i) the information; or
    - (ii) the contents of or information contained in the document;
  - (b) give access to the document to anyone else.
- Maximum penalty—100 penalty units.
- '(3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—
- (a) with the person's written consent; or
  - (b) for administering, or monitoring or enforcing compliance with, this Act; or
  - (c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or
  - (d) in a proceeding before a court in which the information is relevant to the issue before the court; or
  - (e) as required or authorised under an Act.

### **'205B Giving information to corresponding entity**

- '(1) The chief executive may, if asked by a corresponding entity under an arrangement, give the entity information held by the



chief executive that the chief executive is satisfied will help the entity in the exercise of the entity's functions under a corresponding law.

'(2) A person who is, or has been, a corresponding official who, in the course of administering a corresponding law or because of an opportunity provided by involvement in administering a corresponding law, has acquired information about someone else, or gained access to a document about someone else, must not do either of the following—

- (a) disclose to anyone else the acquired information or information from the accessed document;
- (b) give access to the document to anyone else.

Maximum penalty—100 penalty units.

'(3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—

- (a) with the person's written consent; or
- (b) for administering, or monitoring or enforcing compliance with, the corresponding law in relation to which the information was given under subsection (1); or
- (c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or
- (d) in a proceeding before a court, or before an entity carrying out functions under the corresponding law in relation to which the information was given under subsection (1), in which the information is relevant to the issue before the court or entity; or
- (e) as required or authorised under an Act.

'(4) Subsection (1) applies despite section 205A.

'(5) In this section—

***corresponding entity*** means a person who, in relation to the administration of a corresponding law, has functions similar to the chief executive in relation to the administration of this Act.

***corresponding law*** means a law of the Commonwealth or another State about electrical safety.

***corresponding official*** means—

- (a) a corresponding entity or a delegate of a corresponding entity; or
- (b) another person involved in the administration of a corresponding law.’.

#### **48 Amendment of s 210 (Regulation-making power)**

Section 210(2)—

*insert—*

‘(ha) requirements for signs or other advertising material for the hiring or sale of electrical equipment; and’.

#### **49 Amendment of sch 2 (Dictionary)**

Schedule 2—

*insert—*

***‘prescribed details***, for the holder of an electrical work licence engaged to perform or supervise electrical work, means the details about the person, or the person’s electrical work licence, that are prescribed under a regulation for this definition.’.

## **Part 4 Amendment of Industrial Relations Act 1999**

### **50 Act amended in pt 4**

This part amends the *Industrial Relations Act 1999*.

**51 Amendment of s 366 (Time and wages record—industrial instrument employees)**

Section 366(6), definition *industrial instrument employee*—  
*omit, insert—*

*'industrial instrument employee* means—

- (a) a person who—
  - (i) is or has been employed by the employer; and
  - (ii) works or has worked under an industrial instrument or permit; or
- (b) a person who is or has been a student to whom an order made under section 140A applies.'

**52 Amendment of s 367 (Time and wages record—non-industrial instrument employees)**

Section 367(5), definition *non-industrial instrument employee*—

*omit, insert—*

*'non-industrial instrument employee* means a person who—

- (a) is or has been employed by the employer; and
- (b) works or has worked other than under an industrial instrument or a permit.'

**Part 5 Amendment of Workplace Health And Safety Act 1995**

**53 Act amended in pt 5**

This part amends the *Workplace Health and Safety Act 1995*.

**54 Amendment of s 12A (Who is the *client* for construction work)**

Section 12A(2)(a), after 'building'—

*insert—*

'or an associated class 10a building'.

**55 Amendment of s 12B (Who is the *project manager* for construction work)**

Section 12B(2)(a), after 'building'—

*insert—*

'or an associated class 10a building'.

**56 Amendment of s 13 (Who is the *principal contractor* for construction work)**

(1) Section 13(1), after 'for construction work'—

*insert—*

' , other than prescribed construction work,'.

(2) Section 13(3)—

*omit, insert—*

'(3) The *principal contractor* for prescribed construction work is the person who is in control of the prescribed construction work.

*Note—*

For construction work for which there is no client and that is not prescribed construction work, there is no principal contractor.

'(4) In this section—

***prescribed construction work*** means construction work that—

(a) is for a structure that is a class 1a building or an associated class 10a building; and

(b) has an estimated final price of more than \$80000.'.

**57      Amendment of s 30B (Obligations of designers of structures)**

Section 30B(5), definition *structure*, after 'building'—

*insert—*

'or an associated class 10a building'.

**58      Amendment of s 38 (Regulations)**

(1) Section 38(2), before examples—

*insert—*

'(d) prescribe—

(i) that particular work is high risk work or a particular activity is a high risk activity; and

(ii) that high risk work or a high risk activity may be performed only by particular persons having appropriate authority, as prescribed under the regulation, to perform the work or activity.'

(2) Section 38—

*insert—*

'(2A) Without limiting subsection (2)(d)(ii), a regulation under that subsection may provide that the work or activity may be performed only by a person who is at least 18 years.

'(2B) The following is not unlawful discrimination on the basis of age for the *Anti-Discrimination Act 1991*—

(a) a provision of a regulation made under subsection (2)(d) that provides that work prescribed to be high risk work, or an activity prescribed to be a high risk activity, may be performed only by a person who is at least 18 years;

(b) the doing of an act that is necessary to comply with, or that is specifically authorised by, a provision mentioned in paragraph (a).

'(2C) Except as provided for under subsections (2A) and (2B), a regulation made under subsection (2)(d)(ii) can not authorise an act that is unlawful under the *Anti-Discrimination Act 1991*'.

**59 Amendment of s 41 (Code of practice about managing exposure to risks)**

- (1) Section 41(2) and (5)—  
*omit.*
- (2) Section 41(4), after ‘practice’, first mention—  
*insert—*  
‘as in force from time to time’.
- (3) Section 41(3) and (4), as amended—  
*renumber* as section 41(5) and (6).
- (4) Section 41—  
*insert—*
  - ‘(2) A code of practice, or an instrument amending or repealing a code of practice, has no effect unless the Minister gives notice of its making.
  - ‘(3) A notice under subsection (2) is subordinate legislation.
  - ‘(4) A code of practice, or an instrument amending or repealing a code of practice, commences on the later of the following—
    - (a) the day the notice under subsection (2) commences;
    - (b) the day the code or instrument provides that it commences.
  - ‘(7) A code of practice may be made available in written or electronic form.’.

**60 Insertion of new pt 6, divs 8–11**

Part 6—

*insert—*

**‘Division 8 Licensing Review Committee**

**‘64A Establishment of licensing review committee**

‘The Licensing Review Committee is established.

#### **'64B Functions of licensing review committee**

- '(1) The functions of the licensing review committee are—
- (a) to give advice and make recommendations about occupational licences and corresponding occupational licences to the Minister, the board or the chief executive; and
  - (b) to take disciplinary action against holders of occupational licences or corresponding occupational licences, and previous holders of occupational licences or corresponding occupational licences; and
  - (c) to review relevant licensing decisions.
- '(2) Without limiting subsection (1), the licensing review committee may discharge its functions by—
- (a) recommending training modules and courses to qualify persons for occupational licences; and
  - (b) advising on issues the Minister, the board or the chief executive refers to it; and
  - (c) making recommendations about the safety of work or activities for which an occupational licence may be issued, and the standards for qualifications required for an occupational licence; and
  - (d) receiving and investigating complaints about work or activities for which an occupational licence or corresponding occupational licence may be issued; and
  - (e) taking action to ensure holders of occupational licences or corresponding occupational licences perform work or activities to appropriate standards, including by cancelling or suspending licences and taking other disciplinary action; and
  - (f) reviewing relevant licensing decisions, including by confirming, setting aside or substituting the decisions.
- '(3) The chief executive must give the licensing review committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

## **'Division 9                      Provisions about membership of licensing review committee**

### **'64C    Membership of licensing review committee**

- '(1) The licensing review committee consists of a chairperson, and at least 4 other members, appointed by the Minister.
- '(2) In appointing persons as members, the Minister must—
- (a) consider each proposed member's practical experience and competence in the management of workplace health and safety; and
  - (b) ensure that—
    - (i) 1 of the appointed members is representative of employers; and
    - (ii) 1 of the appointed members is representative of workers; and
    - (iii) 1 of the appointed members is representative of the community; and
  - (c) seek to appoint both men and women as members.

### **'64D    Duration of appointment to licensing review committee**

- '(1) The appointment of a member of the licensing review committee is for the term, of not longer than 3 years, decided by the Minister when the member is appointed.
- '(2) The office of a member of the licensing review committee becomes vacant if—
- (a) the member resigns by signed notice of resignation given to the Minister; or
  - (b) the member is found guilty of an indictable offence or an offence against this Act; or
  - (c) the member is absent, without the Minister's leave and without reasonable excuse, from 3 consecutive ordinary meetings of the committee; or



- (d) the member's appointment is ended by the Minister under subsection (3).
- '(3) The Minister may, at any time, end the appointment of a member of the licensing review committee for any reason or without stating a reason.

#### **'64E Leave of absence**

- '(1) The Minister may approve a leave of absence for a member of the licensing review committee.
- '(2) If a leave of absence is approved, the Minister may appoint someone else to act as the member during the member's approved leave of absence.
- '(3) In appointing a person to act as the member, the Minister must have regard to requirements under section 64C for the composition of the committee.

#### **'64F Conditions of appointment**

- '(1) A member of the licensing review committee is appointed on a part-time basis.
- '(2) A member of the licensing review committee is entitled to be paid the remuneration and allowances fixed by the Minister.

### **'Division 10 Conduct of licensing review committee's proceedings generally**

#### **'64G Times of board committee meetings**

- '(1) The licensing review committee may hold its meetings when it decides.
- '(2) The chairperson of the licensing review committee—
  - (a) may call a meeting of the committee at any time; and
  - (b) must call a meeting if the meeting is asked for by at least a third of the other members.

- ‘(3) The Minister, chief executive or the board may call a meeting of the licensing review committee at any time.

#### **‘64H Conduct of proceedings**

- ‘(1) The chairperson of the licensing review committee presides at all meetings of the committee at which the chairperson is present.
- ‘(2) If the chairperson is absent, the member chosen by the members present is to preside.
- ‘(3) At a meeting of the licensing review committee—
- (a) a quorum is at least half the members; and
  - (b) a question is decided by a majority of the votes of the members present and voting; and
  - (c) each member present has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.
- ‘(4) The licensing review committee may otherwise conduct its proceedings, including its meetings, as it considers appropriate.
- ‘(5) The licensing review committee may hold meetings, or permit members to take part in its meetings, by using any technology that reasonably allows members to hear and take part in discussions as they happen.
- Example of use of technology—*
- teleconferencing
- ‘(6) A member who takes part in a committee meeting under subsection (5) is taken to be present at the meeting.
- ‘(7) A resolution is a valid resolution of the licensing review committee, even though it is not passed at a meeting of the committee, if—
- (a) at least half the members give written agreement to the resolution; and
  - (b) notice of the resolution is given under procedures approved by the committee.

#### **'64I Disclosure of interests**

- '(1) If there is a reasonable possibility that a member's participation in the licensing review committee's consideration of an issue will give the member, or an entity associated with the member, a professional or commercial advantage, or will otherwise be a conflict of interest, the member must disclose the possibility to the committee.
- '(2) The disclosure must be recorded in the committee's minutes and, unless the committee otherwise directs, the member must not—
  - (a) be present when the committee considers the issue; or
  - (b) take part in a decision of the committee on the issue.
- '(3) If, because of subsection (2), the member is not present for the licensing review committee's consideration of the issue, but there would be a quorum if the member were present, the remaining members present are a quorum for the committee's consideration of the issue.
- '(4) For subsection (1), an entity is associated with a member if the member is an employee or member of, or an adviser to, the entity.

#### **'64J Minutes**

'The licensing review committee must keep minutes of its proceedings.

#### **'64K Annual report**

'As soon as practicable, but within 4 months, after the end of each financial year, the licensing review committee must prepare and give to the Minister, the board and the chief executive a report on the performance of the committee's functions for the year.

## **'Division 11            Provisions about disciplinary action by licensing review committee**

### **'Subdivision 1        Grounds for disciplinary action**

#### **'64L    Grounds for disciplinary action**

'Each of the following is a ground for taking disciplinary action against the holder of an occupational licence or corresponding occupational licence or a person who was, but is no longer, the holder of an occupational licence or corresponding occupational licence—

- (a) the holder or person performs or supervises work or an activity and the way the work or activity is performed exposes persons to risk of death, injury or illness;
- (b) the holder or person performs or supervises work or an activity and the person who performs the work or activity is negligent or incompetent in the performance of the work.

### **'Subdivision 2        Types of disciplinary action**

#### **'64M    Purpose of sdiv 2**

'This subdivision establishes the disciplinary action that may be taken by the licensing review committee.

#### **'64N    Holders of occupational licences**

- '(1) The licensing review committee may take 1 or more of the following disciplinary actions against the holder of an occupational licence—
- (a) take a prescribed licensing action for the licence;
  - (b) reprimand or caution the holder;
  - (c) impose on the holder a penalty of not more than 40 penalty units;

- (d) disqualify the holder from holding an occupational licence—
  - (i) for a period decided by the committee; or
  - (ii) until conditions decided by the committee are complied with.

*Example of condition for subparagraph (ii)—*

a condition that the licence holder satisfactorily finish a stated training course or examination

- ‘(2) If the occupational licence is suspended because of disciplinary action, the licence can not be renewed while it is still suspended.
- ‘(3) If the holder is disqualified from holding an occupational licence because of disciplinary action—
  - (a) the holder’s licence can not be renewed while the holder is still disqualified; and
  - (b) the holder can not be issued another occupational licence while the holder is still disqualified.
- ‘(4) In this section—

***prescribed licensing action***, for an occupational licence, means—

- (a) cancel or amend the licence; or
- (b) suspend the licence—
  - (i) for a period decided by the committee; or
  - (ii) until conditions decided by the committee are complied with.

*Example of condition for subparagraph (ii)—*

a condition that the licence holder satisfactorily finish a stated training course or examination

#### ‘640 Previous holders of occupational licences

- ‘(1) The licensing review committee may take 1 or more of the following disciplinary actions against a person who was, but is no longer, the holder of an occupational licence—

- (a) reprimand or caution the person;
- (b) impose on the person a penalty of not more than 40 penalty units;
- (c) disqualify the person from holding an occupational licence—
  - (i) for a period decided by the committee; or
  - (ii) until conditions decided by the committee are complied with.

*Example of condition—*

a condition that the person satisfactorily finish a stated training course or examination

- '(2) If a person is disqualified from holding an occupational licence because of disciplinary action, the person can not be issued an occupational licence while the person is still disqualified.

#### **'64P Holders of corresponding occupational licences**

- '(1) The licensing review committee may take either or both of the following disciplinary actions against the holder of a corresponding occupational licence—
  - (a) recommend to the recognised official who issued the licence that the official suspend or cancel the licence or take some other disciplinary action available to it;
  - (b) disqualify the person from holding an occupational licence—
    - (i) for a period decided by the committee; or
    - (ii) until conditions decided by the committee are complied with.

*Example of condition—*

a condition that the person satisfactorily finish a stated training course or examination

- '(2) If the holder of a corresponding occupational licence is disqualified from holding an occupational licence because of

disciplinary action, the holder can not be issued an occupational licence while the holder is still disqualified.

#### **'64Q Previous holders of corresponding occupational licences**

- '(1) The licensing review committee may take either or both of the following disciplinary actions against a person who was, but is no longer, the holder of a corresponding occupational licence—
- (a) recommend to the recognised official who issued the licence that the official take any disciplinary action available to it in relation to the person;
  - (b) disqualify the person from holding an occupational licence—
    - (i) for a period decided by the committee; or
    - (ii) until conditions decided by the committee are complied with.

*Example of condition—*

a condition that the person satisfactorily finish a stated training course or examination

- '(2) If a person is disqualified from holding an occupational licence because of disciplinary action, the person can not be issued an occupational licence while the person is still disqualified.

#### **'64R Penalties**

- '(1) A penalty may be imposed as disciplinary action in addition to the taking of other disciplinary action under this division against a person.
- '(2) If a penalty is imposed as disciplinary action and the person against whom it is imposed does not pay the penalty within the time allowed by the licensing review committee, the committee may take further disciplinary action against the person for the ground for which the penalty was imposed.

- ‘(3) Without limiting subsection (2), a penalty imposed as disciplinary action may be recovered as a debt owing to the State by the person.

### **‘Subdivision 3      Procedures for taking disciplinary action**

#### **‘64S      Application of sdiv 3**

‘This subdivision sets out the procedures for taking disciplinary action against a person.

#### **‘64T      Preliminary notice**

- ‘(1) If the licensing review committee considers that a ground may exist for taking disciplinary action against a person, the committee may give the person a written notice (*preliminary notice*) stating—
- (a) that the committee is considering whether it should hold a hearing—
    - (i) to decide whether a ground exists for taking disciplinary action against the person; and
    - (ii) if the committee decides a ground exists for taking disciplinary action—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
  - (b) the ground that the committee considers may exist for taking disciplinary action against the person; and
  - (c) an outline of the committee’s understanding of the facts and circumstances forming the basis for the committee’s view that the ground may exist; and
  - (d) an invitation to the person to give the committee information the person considers the committee should consider before deciding whether to hold the hearing, including information the person considers would justify the committee in deciding not to act further under this part; and



- (e) that, to ensure the committee is required to consider the person's information, the committee must receive the information within the fixed period after the date of the notice; and
  - (f) what the fixed period is.
- '(2) The preliminary notice must be dated not earlier than the day the notice is given.
- '(3) The committee must consider information provided by the person in response to the preliminary notice if the information is received by the committee within the fixed period after the date of the preliminary notice.
- '(4) The committee may consider, but is not required to consider, information provided by the person in response to the preliminary notice if the information is received by the committee after the fixed period.
- '(5) A preliminary notice may deal with—
- (a) more than 1 ground; or
  - (b) more than 1 set of facts and circumstances.
- '(6) In this section—
- fixed period* means 14 days, or a longer period fixed by the licensing review committee for a particular preliminary notice.

#### **'64U Consideration before disciplinary hearing**

'The licensing review committee may hold a disciplinary hearing under section 64W only if—

- (a) the committee has considered—
  - (i) all information provided by the person that the committee is required to consider; and
  - (ii) all other information provided by the person that the committee decides to consider; and
- (b) the committee still considers that the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person.

#### **'64V Disciplinary hearing notice**

- '(1) Before holding a disciplinary hearing under section 64W, the licensing review committee must give the person a written notice (*disciplinary hearing notice*) stating—
- (a) that the committee still considers the ground mentioned in the preliminary notice may exist for taking disciplinary action against the person; and
  - (b) that the committee has decided to hold a disciplinary hearing—
    - (i) to decide whether the ground exists; and
    - (ii) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
  - (c) an outline of the committee's understanding of the facts and circumstances forming the basis for the committee's view that the ground may exist; and
  - (d) when and where the disciplinary hearing is to be held; and
  - (e) that—
    - (i) the person is required to appear at the hearing; and
    - (ii) if the person appears at the hearing, the person may give information or make submissions to the committee at the hearing; and
  - (f) that, if the person does not appear at the hearing—
    - (i) the person may give information or make submissions to the committee in another way; and
    - (ii) the committee may act in the person's absence, whether or not the person gives information or makes submissions.
- '(2) The disciplinary hearing notice must be dated not earlier than the day the notice is given.
- '(3) The date the committee fixes for the disciplinary hearing must be at least 14 days after the date of the disciplinary hearing notice.

- ‘(4) The committee must include with the disciplinary hearing notice—
- (a) a copy of the preliminary notice; and
  - (b) copies of all available written material held by the committee that the committee reasonably considers to be relevant to the proposed disciplinary hearing.

#### **‘64W Disciplinary hearing**

- ‘(1) The licensing review committee may hold a hearing (*disciplinary hearing*)—
- (a) to decide whether the ground mentioned in the preliminary notice and disciplinary hearing notice exists for taking disciplinary action against the person; and
  - (b) if the committee decides the ground exists—to decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action.
- ‘(2) The disciplinary hearing is taken to be held as, or as a part of, a meeting of the committee, and the provisions of this Act providing for the holding of meetings of the committee apply to the meeting to the extent the provisions are consistent with the provisions of this subdivision.

#### **‘64X Disciplinary hearing requirements**

- ‘(1) When conducting the disciplinary hearing, the licensing review committee—
- (a) must comply with natural justice; and
  - (b) must act as quickly and with as little formality and technicality as is consistent with appropriate consideration of the issues before it; and
  - (c) is not bound by the rules of evidence; and
  - (d) may inform itself of anything in the way it considers appropriate; and
  - (e) may adjourn the hearing at any time to make further enquiries or for another purpose.

- '(2) Also, the committee must—
- (a) at the start of the hearing, tell the person—
    - (i) the facts and circumstances forming the basis for the committee's view that the ground mentioned in the preliminary notice and disciplinary hearing notice may exist for taking disciplinary action against the person; and
    - (ii) what possible disciplinary action the committee may take against the person; and
  - (b) if asked by the person—explain to the person any aspect of the committee's procedures or any decisions or rulings relating to the hearing; and
  - (c) ensure the person has the fullest opportunity practicable to be heard.
- '(3) The disciplinary hearing is not open to the public unless the committee otherwise decides.
- '(4) At the disciplinary hearing, the committee may act in the absence of the person if it reasonably believes that the requirements of this Act for giving the holder the disciplinary hearing notice have been followed.

**'64Y Evidence and findings in other proceedings may be received or adopted**

'During the disciplinary hearing the licensing review committee may—

- (a) receive in evidence a transcript or part of a transcript of evidence taken in a proceeding before any disciplinary body or a court, tribunal or other entity constituted under the law of the State, the Commonwealth, another State or a foreign country and draw conclusions of fact from the evidence; or
- (b) adopt as it considers appropriate decisions, findings, judgments or reasons for judgment of a disciplinary body, court, tribunal or entity that may be relevant to the disciplinary hearing.

**'64Z Licensing review committee to keep record of disciplinary hearing**

- '(1) The licensing review committee must keep a record of evidence given to it for the disciplinary hearing.
- '(2) However, the committee is not required to keep a transcript of the disciplinary hearing.
- '(3) In this section—  
*evidence*, given to the licensing review committee, includes information given and submissions made to the committee.

**'64ZA Decision about taking disciplinary action**

- '(1) As soon as practicable after completing the disciplinary hearing, the licensing review committee must—
  - (a) decide whether the ground mentioned in the preliminary notice and disciplinary hearing notice exists for taking disciplinary action against the person; and
  - (b) if the committee decides that the ground exists for taking disciplinary action against the person—decide whether disciplinary action is to be taken, and if so, the details of the disciplinary action; and
  - (c) give the person a written notice informing the person of what the committee has decided.
- '(2) If the committee decides that disciplinary action is to be taken against the person, the written notice must include information notices for the committee's decisions under subsection (1)(a) and (b).
- '(3) The disciplinary action takes effect on the day stated in the written notice for the disciplinary action to take effect.
- '(4) The day stated in the written notice for the disciplinary action to take effect must be not earlier than the day the notice is given.
- '(5) In this section—  
*information notice* means written notice stating—
  - (a) the decision; and

- (b) the reasons for the decision; and
- (c) that the person may appeal against the decision under part 11.’.

**61 Amendment of s 122 (Power to require production of certain documents)**

Section 122—

*insert—*

‘(8) In this section—

***corresponding licence*** means a licence, permit, certificate or other authority that—

- (a) is issued or granted under a law of the Commonwealth or another State about workplace health and safety; and
- (b) is equivalent, in its effect, to a licence or certificate issued under a regulation or an occupational certificate mentioned in section 39.

***document*** does not include—

- (a) a licence or certificate issued under a regulation under this Act; or
- (b) an occupational certificate mentioned in section 39; or
- (c) a corresponding licence.’.

**62 Amendment of s 147A (Definitions for pt 11)**

(1) Section 147A—

*insert—*

***licence holder*** means the holder of an occupational licence or corresponding occupational licence.

***review entity*** means—

- (a) for a decision of an inspector, other than a decision to give a prohibition notice to a licence holder—the chief executive; or

- (b) for a decision of an inspector to give a prohibition notice to a licence holder, or a decision of the chief executive to give a licence holder a licence show cause notice—the licensing review committee.’.
- (2) Section 147A, definition *original decision*, paragraph (a)—  
*omit, insert*—
- ‘(a) for division 2, means—
- (i) a decision of an inspector; or
  - (ii) a decision of the chief executive to give a licence holder a licence show cause notice; or’.
- (3) Section 147A, definition *original decision*, paragraph (d)—  
*insert*—
- ‘(v) a decision of the licensing review committee under section 64ZA or 150.’.

**63 Amendment of pt 11, div 2 hdg**

Part 11, division 2, heading, ‘Internal review’—  
*omit, insert*—  
‘**Review**’.

**64 Amendment of s 149 (Procedure for review)**

Section 149, ‘chief executive’—  
*omit, insert*—  
‘review entity’.

**65 Amendment of s 150 (Review of decision)**

- (1) Section 150(1), (3) and (5), ‘chief executive’—  
*omit, insert*—  
‘review entity’.
- (2) Section 150(2), ‘The’—

*omit, insert—*

‘If the review entity is the chief executive, the’.

**66 Amendment of s 161 (Evidentiary aids)**

Section 161(2)(b), before ‘certificate’—

*insert—*

‘licence,’.

**67 Amendment of s 171 (False or misleading statements)**

Section 171(3), definition *official*—

*omit, insert—*

‘**official** means—

- (a) a board of inquiry; or
- (b) the licensing review committee; or
- (c) the chief executive; or
- (d) an inspector; or
- (e) an authorised representative.’.

**68 Amendment of s 172 (False, misleading or incomplete documents)**

- (1) Section 172(1), after ‘board of inquiry,’—

*insert—*

‘the licensing review committee,’.

- (2) Section 172(2)(a), after ‘board,’—

*insert—*

‘committee,’.

**69 Amendment of s 183 (Protection from liability—officials)**

Section 183(1), definition *official*—



*omit, insert—*

*'official* means—

- (a) the Minister; or
- (b) a member of a board of inquiry; or
- (c) a member of the board, an industry sector standing committee or the licensing review committee; or
- (d) the chief executive; or
- (e) an inspector.'

**70 Amendment of s 184A (Appointment of principal contractors)**

- (1) Section 184A(1)(b), from 'the estimated'—

*omit, insert—*

'has an estimated final price of more than \$80000.'

- (2) Section 184A(3)(b), 'no later than 10 days'—

*omit.*

**71 Amendment of s 185C (Confidentiality of particular information)**

Section 185C(1) and (2)—

*omit, insert—*

- '(1) This section applies to an official who, in the course of administering this Act or because of an opportunity provided by involvement in administering this Act, has—

- (a) acquired information about someone else; or
- (b) gained access to a document about someone else.

- '(2) The official must not do either of the following—

- (a) disclose to anyone else—
  - (i) the information; or
  - (ii) the contents of or information contained in the document;

(b) give access to the document to anyone else.

Maximum penalty—100 penalty units.

‘(2A) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—

(a) with the person’s written consent; or

(b) for administering, or monitoring or enforcing compliance with, this Act; or

(c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or

(d) in a proceeding before a court or a board of inquiry in which the information is relevant to the issue before the court or board; or

(e) as required or authorised under an Act.’

## **72 Insertion of new s 185D**

After section 185C—

*insert—*

### **‘185D Giving information to corresponding entity**

‘(1) The chief executive may, if asked by a corresponding entity under an arrangement, give the entity information held by the chief executive that the chief executive is satisfied will help the entity in the exercise of the entity’s functions under a corresponding law.

‘(2) A corresponding official who, in the course of administering a corresponding law or because of an opportunity provided by involvement in administering a corresponding law, has acquired information about someone else, or gained access to a document about someone else, must not do either of the following—

(a) disclose to anyone else the acquired information or information from the accessed document;

(b) give access to the document to anyone else.

Maximum penalty—100 penalty units.

- ‘(3) Subsection (2) does not apply to the disclosure of information, or the giving of access to a document, about a person—
- (a) with the person’s written consent; or
  - (b) for administering, or monitoring or enforcing compliance with, the corresponding law in relation to which the information was given under subsection (1); or
  - (c) for the administration or enforcement of another Act or law, if the disclosure or access is in the interests of public safety; or
  - (d) in a proceeding before a court, or before an entity carrying out functions under the corresponding law in relation to which the information was given under subsection (1), in which the information is relevant to the issue before the court or entity; or
  - (e) as required or authorised under an Act.
- ‘(4) Subsection (1) applies despite section 185C.
- ‘(5) In this section—

***corresponding entity*** means a person who, in relation to the administration of a corresponding law, has functions similar to the chief executive in relation to the administration of this Act.

***corresponding law*** means a law of the Commonwealth or another State about workplace health and safety.

***corresponding official*** means a person who is, or has been—

- (a) a corresponding entity or a delegate of a corresponding entity; or
- (b) another person involved in the administration of a corresponding law.’.

## 73 Insertion of new pt 17, div 4

Part 17—

*insert—*

**'Division 4                      Transitional provisions for Workers'  
Compensation and Rehabilitation  
and Other Acts Amendment Act  
2007**

**'193    Existing reviews of relevant licensing decisions**

- '(1) This section applies if—
- (a) before the commencement of this section, a person made an application for the review of a relevant licensing decision, under part 11, division 2 of this Act as in force before the commencement; and
  - (b) the application has not been decided or withdrawn at the commencement.
- '(2) If the chief executive has started considering the application, the chief executive must continue considering the application and decide it in the way required under section 150 as in force before the commencement.
- '(3) If the chief executive has not started considering the application—
- (a) the application is taken to be an application for review made to the licensing review committee; and
  - (b) the licensing review committee must consider and decide the application in the way required under section 150 as if the application had been made to the committee after the commencement.

**'194    Grounds for disciplinary action**

'The grounds, under section 64L, for the licensing review committee taking disciplinary action against a person apply only to work or an activity performed or supervised by the person after the commencement of this section.'

**74        Amendment of sch 3 (Dictionary)**

- (1) Schedule 3—

*insert—*

**'associated class 10a building'** means a class 10a building that is associated with a class 1a building.

**class 10a building** means a building that, under the BCA, part A3.2, is classified as a class 10a building.

**corresponding occupational licence—**

- (a) means a licence, permit, certificate or other authority—
  - (i) issued or granted under a law of the Commonwealth or another State about workplace health and safety; and
  - (ii) authorising its holder to perform work or an activity that is the same or substantially the same as work or an activity for which an occupational licence may be issued under this Act; and
- (b) includes a licence, permit, certificate or other authority, issued or granted under a law of the Commonwealth or another State, that is prescribed under a regulation.

**licence holder**, for part 11, see section 147A.

**licence show cause notice** means—

- (a) in relation to the holder of an occupational licence—a written notice about the chief executive's proposal to suspend or cancel the holder's licence under a regulation; or
- (b) in relation to the holder of a corresponding occupational licence—a written notice about the chief executive's proposal to, under a regulation, recommend to the relevant recognised official that the official suspend or cancel the holder's licence.

**licensing review committee** means the Licensing Review Committee established under section 64A.

**occupational licence** means—

- (a) a licence or certificate to perform particular work, or a particular activity, issued under this Act; or
- (b) an occupational certificate mentioned in section 39.

***recognised official***, in relation to a corresponding occupational licence, means a person who may issue, suspend or cancel the licence under a law of the Commonwealth or another State about workplace health and safety.

***relevant licensing decision*** means—

- (a) a decision of the chief executive to give a licence show cause notice to the holder of an occupational licence or corresponding occupational licence; or
- (b) a decision of an inspector to issue a prohibition notice to the holder of an occupational licence or corresponding occupational licence.

***review entity***, for part 11, see section 147A.’

- (2) Schedule 3, definition *structure*, paragraph (a), ‘a steel or reinforced concrete’—

*omit.*