

# Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Bill 2017

## Explanatory Notes

### Short title

The short title of the Bill is the Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Bill 2017.

### Policy objectives and the reasons for them

#### Workers' compensation

The *Workers' Compensation and Rehabilitation Act 2003* establishes the Queensland workers' compensation scheme which provides benefits for workers who sustain injury in their employment and for dependants if a worker's injury results in the worker's death, as well as and encouraging improved health and safety performance by employers.

Coal Workers' Pneumoconiosis (CWP) is a lung disease contracted through workplace exposure to coal dust over a period of time. CWP is considered a latent onset injury under the workers' compensation scheme.

Following the re-identification of CWP in Queensland, Parliament established the Coal Workers' Pneumoconiosis Select Committee on 15 September 2016 to conduct an inquiry and report into CWP in coal mine workers in Queensland. Evidence provided before the Select Committee raised concerns regarding how the workers' compensation scheme operates in relation to CWP. In response to these concerns, the Government established a CWP Stakeholder Reference Group consisting of representatives of employers, unions, the legal profession, insurers and departments relevant to coal mining in December 2016 to provide advice on any gaps in the workers' compensation scheme. The CWP Stakeholder Reference Group recommendations include:

- an interim medical examination for former coal workers concerned they have CWP, and who have retired or left the coal industry prior to 1 January 2017;
- ensuring workers with simple CWP who experience disease progression can apply to re-open their claim to access further benefits under the workers' compensation scheme;
- extra rehabilitation support to assist workers back into suitable alternative employment; and
- streamlining workers' compensation arrangements so they properly align with the Coal Mine Workers' Health Scheme.

The Bill legislatively implements two recommendations of the CWP Stakeholder Reference Group. It addresses concerns about former or retired coal workers not undergoing medical testing for CWP due to the high costs involved. The Bill also ensures that workers with CWP and other types of pneumoconiosis (such as silicosis) who experience disease progression can “re-open” their workers’ compensation claim and access further entitlements. As part of implementing these recommendations, the Bill also introduces an additional lump sum compensation for workers with pneumoconiosis. This additional lump sum compensation recognises the ongoing nature of pneumoconiosis injuries and will ensure that workers with CWP or another pneumoconiosis will have access to compensation for their injury, even in circumstances where they are not suffering any permanent impairment or incapacity for work.

The Bill also amends the *Workers’ Compensation and Rehabilitation Act 2003* to address recent decisions of the Queensland Industrial Relations Commission to grant applications to stay a decision of the workers’ compensation regulator following the review of an insurer’s decision on a workers’ compensation claim. The granting of these stays has resulted in injured workers being denied access to weekly compensation while the appeal is determined. In granting these stays, the Queensland Industrial Relations Commission has relied on matters specific to the employer’s status as a self-insured employer, which allows a self-insured employer to gain financial advantage through the appeals process to the detriment of the worker. The Bill amends the *Industrial Relations Act 2016* to make it clear that a stay cannot be granted in an appeal against a decision to accept compensation.

### Work health and safety

The Bill implements an election commitment made by the Government to involve injured workers and families of persons who have been fatally or seriously injured at work in a consultative committee to ensure genuine and ongoing input.

Since 2015, two Families Forums have been held with key themes raised by participants including the need for early, comprehensive and consistent communication from relevant agencies when liaising with families following a work-related fatality or serious injury. Family representatives also advocated a legislated consultative committee to address issues raised at the forum and formalise the committee’s ongoing role.

The Bill amends the *Work Health and Safety Act 2011* to establish a consultative committee to provide advice on the information and support needs of persons affected by a workplace incident that involves death or a serious injury or illness. The consultative committee will allow for broad representation from different industries to provide advice to the Minister and ensure health and safety regulators are given consistent information on how to improve procedures and practices when interacting with next of kin and other persons affected by a workplace incident causing a fatality or serious injury or illness.

### Electrical safety amendments

The *Electrical Safety Act 2002* establishes a licensing framework for individuals who carry out electrical work. Following an inquest into the death of a worker who was electrocuted at a construction site in 2012, the coroner raised the issue of whether it was in the interests of public safety to be able to suspend a licence immediately where a death or grievous bodily harm results from an electrical incident caused by the electrical work of an individual licence holder.

The Bill amends the *Electrical Safety Act 2002* to allow the regulator to immediately suspend an existing electrical worker's licence in specific serious circumstances, and establishes the process for the matter to be referred to the Electrical Licensing Committee (ELC), which has existing powers to take disciplinary action against licence holders.

In 2016, the Office of the Industrial Relations commissioned KPMG to review the electrical licensing framework in Queensland. KPMG's report, *The Review of Regulatory Requirements for Queensland Electrical Licences*, identified a range of issues affecting the electrical licensing framework and noted that the quality and administration of the training package is critical and issuing the qualification has a direct relationship to obtaining a licence. The Bill amends the *Electrical Safety Act 2002* to allow regulator to obtain relevant information from third parties, such as registered training organisations, as part of considering an application for a licence. The Bill will also provide the ELC with the ability to direct an existing electrical licence holder to undergo a reassessment of competency where there are reasonable grounds to believe the licence holder may not be competent.

These amendments to the *Electrical Safety Act 2002* are aimed at improving the rigour of the electrical licensing framework in the interests of protecting workers and the public whose safety can be affected by the electrical work carried out by licensed electrical workers.

## **Achievement of policy objectives**

The Bill will achieve its objectives by amending the *Workers' Compensation and Rehabilitation Act 2003*, *Work Health and Safety Act 2011* and *Electrical Safety Act 2002* to:

- introduce a medical examination for retired or former coal workers who are concerned that they may have CWP or a Coal Mine Dust Lung.
- introduce an additional lump sum compensation entitlement for workers with pneumoconiosis.
- ensure that a worker with pneumoconiosis, who experiences disease progression, can "re-open" their claim and access further benefits under the workers' compensation scheme.
- clarify that the power to grant a stay under the *Industrial Relations Act 2016* does not apply to an appeal under the *Workers' Compensation and Rehabilitation Act 2003*.
- establish a Persons Affected by Work Related Fatalities and Serious Incidents Consultative Committee to provide advice on information and support needs for persons affected by a work-related incident resulting in death or serious injury or illness.
- allow the electrical safety regulator to immediately suspend a person's electrical work licence if the regulator forms a reasonable belief that the person may be responsible for electrical work that has caused a death or grievous bodily harm or have otherwise carried out electrical work that poses an imminent serious risk to the health or safety of any person.
- allow the electrical safety regulator to obtain further information from a third party, for example, a registered training organisation, about the competency of an electrical work licence applicant as part of making a determination about granting a licence.
- allow the Electrical Licensing Committee to direct an electrical work licence holder to undertake a competency reassessment where there are reasonable grounds to believe the licence holder may not be competent, which is similar to a requirement in the *Work*

*Health and Safety Regulation 2011* for directing reassessment of competency for high risk work licence holders.

The approach to achieving the policy objectives is reasonable and appropriate. The amendments to the *Workers' Compensation and Rehabilitation Act 2003* will provide additional support for current and former coal workers with CWP and other pneumoconiosis injuries and ensure that workers can access fair and reasonable entitlements under the workers' compensation scheme.

The amendment to clarify that the power to grant a stay under the *Industrial Relations Act 2016* does not apply to an appeal under the *Workers' Compensation and Rehabilitation Act 2003* will ensure workers are not denied access to financial benefits and medical treatment. The amendments do not impose a regulatory burden on business or the community.

The amendment to the *Work Health and Safety Act 2011* to establish the Persons Affected by Work-related Fatalities and Serious Incidents Consultative Committee does not impose a regulatory burden on business or the community. Further, it acknowledges the human cost caused by work-related fatalities and serious incidents, and the need for government agencies to maintain high standards and be aware of the sensitive nature of their interactions with people affected by traumatic work incidents.

The *Electrical Safety Act 2002* amendments balance the need to protect the safety of workers and the public with the rights of individuals seeking to carry out licensed electrical work.

## **Alternative ways of achieving policy objectives**

The amendments contained in this Bill are considered the best way of achieving the policy objectives.

## **Estimated cost for government implementation**

There will be minimal costs to Government associated with the amendments to the *Workers' Compensation and Rehabilitation Act 2003*. The cost of undertaking medical examinations for former coal workers to determine if the worker has CWP is able to be met through the workers' compensation scheme. The cost of these examinations will be included in each employer's premium or borne directly by self-insurers. There will be no cost impact for other employers in the scheme. The cost of the pneumoconiosis lump sum compensation entitlement is also able to be met by the workers' compensation scheme.

There are minimal costs to Government associated with establishing the Persons Affected by Work Related Fatalities and Serious Incidents Consultative Committee. Members of the committee will not be paid remuneration, however, reasonable and necessary expenses for attending committee meetings would be paid. Administrative support for the committee will be met within existing resources of the department.

There are minimal costs to Government associated with amendments to improve the electrical licensing framework which will be met within existing resources of the department.

## Consistency with fundamental legislative principles

The Bill's amendments to the workers' compensation and work health and safety legislation are consistent with fundamental legislative principles.

The electrical safety amendments provide the regulator with the power to immediately suspend an electrical work licence, which potentially infringes the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals, and in particular, whether the power is subject to appropriate review and is consistent with principles of natural justice.

Before imposing an immediate suspension, the regulator must have a reasonable belief that the licence holder has performed work that may have caused a fatality or grievous bodily harm, or poses an imminent and serious risk to the health or safety of a person. Although there is no right to a review of the initial decision to impose an immediate suspension, the provisions include a number of safeguards which automatically lift the suspension.

In addition, the immediate suspension notice provides that the licence holder may make a submission to be considered by the Electrical Licensing Committee (ELC) as it proceeds to the ELC. The decision of the ELC regarding the immediate suspension is a reviewable decision. It is also important to note that, under the *Acts Interpretation Act 1954*, the regulator may revoke the immediate suspension at any time before the hearing if the regulator is satisfied the suspension is no longer necessary to reduce the risk of harm to health or safety. Further, the period between the date the immediate suspension notice is given and the disciplinary hearing date has been streamlined to achieve a balance between the need to give the licence holder sufficient time to consider and respond to the issues that will be addressed at the disciplinary hearing, and expediting the process so the matter can be heard and the licence holder's review rights come into effect. The potential infringement of fundamental legislative principles is justified on the basis that that the amendments balance the protection of public safety in serious circumstances with the rights of the licence holder.

## Consultation

In May 2017, the following individuals and parties were consulted during the development of the Bill and given the opportunity to provide feedback:

- The CWP Workers' Compensation Stakeholder Reference Group, comprised representatives from the Queensland Law Society, Australian Workers Union, Construction, Forestry, Mining and Energy Union, Queensland Division, Queensland Resources Council, AIGroup, Queensland Council of Unions, Association of Self-Insurers Queensland, WorkCover Queensland, the Office of Industrial Relations and Department of Natural Resources and Mines.
- Dr Robert Cohen MD, FCCP, Clinical Professor, Environmental and Occupational Health Sciences, School of Public Health, University of Illinois at Chicago.
- Dr Katrina Newbiggin, BSc (UQ) MBBS (UQ) FRANZCR (radiologist)

- The Association of Self-Insured Employers of Queensland (ASIEQ) (in relation to stays of appeals)
- The Commissioner for Electrical Safety, the Electrical Safety Board, and the Electrical Licensing Committee.
- Representatives from the interim consultative committee for work-related fatalities and serious incidents.

The Office of Best Practice Regulation within the Queensland Productivity Commission was consulted on the amendments in the Bill and advised that a regulatory impact statement was not required.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland.

## **Notes on provisions**

### **Part 1 Preliminary**

Clause 1 states the short title of the Act.

### **Part 2 – Amendment of *Electrical Safety Act 2002***

Clause 2 states that this part amends the *Electrical Safety Act 2002*.

Clause 3 inserts a new subdivision heading, 'Requests for further information and documents'

Clause 4 inserts new provisions in Part 4, division 2A, subdivision 2, 'Competency assessments'.

New section 64B provides the head of power for the electrical licensing committee to give notice to the holder of an electrical work licence that it is proposing to direct the licence holder to undergo an assessment of competency if the committee reasonably believes the licence holder may not be competent to perform electrical work or an aspect of electrical work. This provision specifies the requirements for giving the licence holder written notice about the proposed direction and provides an opportunity for the licence holder to show why the proposed direction should not be given. The committee must consider any representations made by the person within the period stated on the notice.

New section 64C allows the electrical licensing committee to provide a direction to the holder of an electrical work licence to undergo an assessment of competency to perform electrical work or an aspect of electrical work and details what the written notice must contain. A

decision by the committee to issue a section 64C direction is a reviewable decision. Failure to comply with the direction does not constitute an offence; however it could support a ground under section 106 for disciplinary action to be taken, e.g. lack of competency (under section 106(a)(ii) or eligibility requirements for the licence are no longer met by the licence holder (section 106(e)). Likewise, failure to satisfactorily complete a competency assessment could support a ground under section 106 for disciplinary action to be taken.

New section 64D provides that the registered training organisation must prepare a report about the assessment and give a copy to both the person and the electrical licensing committee. The registered training organisation must do this as soon as practicable after completing the assessment.

Clause 5 amends section 88 to reflect the additional functions regarding competency assessment and immediate suspension of the electrical licensing committee conferred by the Bill.

Clause 6 amends the heading for part 9 to 'Disciplinary action and immediate suspension notices'.

Clause 7 amends the heading for part 9, division 3 to 'Procedures for taking disciplinary action generally'.

Clause 8 amends section 113 to clarify that part 9, division 3 does not apply for taking disciplinary action against a person in relation to the performance of electrical work if the person has been given an effective immediate suspension notice in relation to the work.

Clause 9 inserts a new part 9, division 4, 'Immediate suspension of electrical work licences'.

New section 121AA provides a head of power for the regulator to suspend a person's electrical work licence if the holder of the licence performs or supervises electrical work and the regulator believes on reasonable grounds that the performance of the work:

- may have caused the death of, or grievous bodily harm to, a person; or
- may involve an imminent serious risk to the health or safety of a person.

In the case of an external licence, the regulator may suspend the application of the external licence recognition provision to the external licence. New section 121AA also requires the regulator to give the licence holder written notice of the suspension and give a copy of the notice to the electrical licensing committee. The suspension takes effect when the notice is given.

New section 121AB specifies what an immediate suspension notice must state. This includes the suspension takes immediate effect, grounds for imposing the immediate suspension (as provided in section 121AA), as well as the ground/s under section 106 that will be considered by the committee at the disciplinary hearing. The notice also outlines timeframes and processes for the progress of the matter to hearing by the electrical licensing committee, and states that the committee's decision is reviewable.

New section 121AC requires the regulator to give the electrical work licence holder's written submission to the electrical licensing committee before the disciplinary hearing.

New section 121AD sets out the requirements for the notice of a disciplinary hearing issued by the electrical licensing committee to the licence holder. The notice of hearing must be accompanied by a copy of the immediate suspension notice and copies of all written material held by the committee which the committee reasonably considers to be relevant to the disciplinary hearing.

New section 121AE requires the electrical licensing committee to hold a disciplinary hearing under section 115(1) and specifies other sections of the Act which apply to the disciplinary hearing. The licensing committee is required to tell the licence holder the facts and circumstances the committee considers relevant and the disciplinary action that may be taken against the licence holder. The licensing committee is required to consider any written submissions made by the licence holder and given to the committee under section 121AC.

New section 121AF details when an immediate suspension notice stops having effect.

Clause 10 amends section 122C to allow the regulator to obtain information from a relevant person when deciding whether or not to issue an electrical licence. This section defines a 'relevant person' and includes an applicant's current or past employer and the registered training organisation which provided the applicant's training in performing electrical work.

Clause 11 makes an amendment to the definition of 'decision' in section 167 which has the effect of excluding the regulator's decision to issue an immediate suspension notice from review provisions.

Clause 12 provides for an external review of decisions by QCAT to include a decision by the electrical licensing committee regarding a direction under new section 64C. Section 172 provides that a licence holder affected by a disciplinary decision made by the electrical licensing committee may apply to the Queensland Civil and Administrative Tribunal (QCAT) for a review of the decision.

Clause 13 inserts new definitions in the dictionary (schedule 2) for the terms 'hearing notice', 'immediate suspension notice', 'registered training organisation', and 'submission period'.

### **Part 3 – Amendment of *Industrial Relations Act 2016***

Clause 14 states that this part amends the *Industrial Relations Act 2016*.

Clause 15 clarifies that section 566 (stay of decision appealed against) does not apply to an appeal under the *Workers' Compensation and Rehabilitation Act 2003*, chapter 13, part 3 against a decision to accept an application for compensation under that Act. This amendment will ensure that workers are not financially disadvantaged during the conduct of an appeal.



Clause 16 inserts a transitional provision for existing appeals made under the *Workers' Compensation and Rehabilitation Act 2003*, chapter 13, part 3 but not decided before the commencement.

## **Part 4 – Amendment of *Workers' Compensation and Rehabilitation Act 2003***

Clause 17 provides that this part amends the *Workers' Compensation and Rehabilitation Act 2003*.

Clause 18 inserts a new chapter 1, part 4, division 6, subdivision 3C, Pneumoconiosis.

New section 36F defines 'pneumoconiosis score' to mean a score that uses a chest x-ray to grade an injury that is pneumoconiosis and is worked out in the way prescribed by regulation (see clause 35).

Clause 19 inserts a new section 63A as a consequence of the insertion of the new medical examination process (see clause 28) to allow WorkCover to charge an additional premium on a policy issued to an employer who, before 1 January 2017, engaged a former coal worker to work in an industry that involves mining, loading, transporting or otherwise dealing with coal. The additional premium is an amount that WorkCover considers necessary towards covering the cost of administering the medical examinations.

Clause 20 inserts a new chapter 3, part 3, division 5, Workers with pneumoconiosis.

New section 128F sets out the application of the new division 5 to a worker who has sustained an injury that is pneumoconiosis and whose entitlement to compensation under the Act has not ended under section 119(2). This makes it clear that the entitlement to compensation applies to pneumoconiosis injuries that have not been settled under a common law claim.

New section 128G sets out an entitlement to lump sum compensation up to \$120,000 for a pneumoconiosis injury in accordance with the graduated scale prescribed by regulation and calculated on the basis of a worker's pneumoconiosis score and lodgement age.

New section 128H sets out that lump sum compensation for pneumoconiosis is only payable after a worker's injury has been assessed for permanent impairment under section 179 of the Act. This is consistent with the payment of statutory lump sum compensation under Chapter 3, Part 10.

Subdivision 2 provides an entitlement to further lump sum (section 128I) to allow a worker with pneumoconiosis to access further lump sum compensation if their injury deteriorates. A worker's entitlement for further lump sum compensation is reduced to take account of all previous payments for the injury. Where a worker has settled or obtained judgment in a common law action, the worker is only entitled to further lump sum compensation where the settlement or damages does not specifically include an allowance in respect of deterioration of their pneumoconiosis.

New section 128J provides that a worker is entitled to further lump sum compensation for the injury calculated by reference to the difference between the amount the worker previously received and their increased pneumoconiosis score. This is subject to the maximum statutory entitlements in section 140 of the Act.

New section 128K provides the further lump sum compensation is payable only after the worker's injury has been further assessed under section 179 and clarifies that it does not matter whether the notice of assessment in relation to the injury states the worker has sustained permanent impairment from the injury.

New section 128L provides for an insurer to advance to the worker amount on account of lump sum compensation as it considers appropriate. The insurer will have regard to the financial hardship a worker is experiencing.

New section 128M provides that if a workers receives lump sum compensation for a pneumoconiosis injury, this compensation must be reduced by any amounts of compensation for a previous pneumoconiosis injury.

Clause 21 amends section 140 to clarify that any amounts of lump sum compensation for pneumoconiosis paid under part 3, division 5 are included in the worker's maximum entitlement.

Clause 22 inserts a note for section 179 (assessment of permanent impairment) to refer to section 193C which provides for a further assessment of impairment of a worker's pneumoconiosis injury.

Clause 23 amends section 189 which provides for a worker to make a decision about accepting lump sum compensation where their degree of permanent impairment is less than 20% or no degree of permanent impairment, by requiring the insurer, when giving the notice of assessment to the worker, to include a copy of part 3, division 5 and division 5 and to advise the worker, that if the workers seeks damages for the injury, the worker may, despite section 239 be entitled to further lump sum compensation under those provisions for the injury.

Clause 24 makes a consequential amendment to section 190 (No further compensation after fixed time) to clarify that section 190 does not limit a worker's entitlement to payment of compensation under the new part 3, division 5.

Clause 25 inserts a new chapter 3, part 10, division 5, Particular workers with pneumoconiosis.

New section 193B provides that the new Division 5 applies to a worker with pneumoconiosis if the worker has been previously given a notice of assessment in relation to the injury and at any time after the notice is given, the worker's pneumoconiosis score increases and the worker falls within a higher pneumoconiosis band. Where a worker has settled a claim for damages, or judgment for damages has been given in respect of a pneumoconiosis injury, the worker is only able to receive additional compensation if the settlement or damages did not compensate the worker for future progression of their injury.

New section 193C makes an amendment to section 179 to provide the insurer can decide, or the worker with pneumoconiosis that has progressed can request, a further assessment under section 179 to determine whether the worker's degree of permanent impairment has increased.

New section 193D sets out a worker's entitlement to lump sum compensation under this Part and provides that if the worker's assessment of permanent impairment increases the worker is entitled to further lump sum compensation for that increased new impairment. Any lump sum compensation payable is reduced by previous payments received by the worker in respect of that injury. Where a worker settled a common law claim without allowance for future progression their entitlement under this section is reduce by the amount of compensation the worker would have been entitled to under section 180 calculated on the basis of their DPI in the first notice of assessment for that injury.

Clause 26 makes a consequential amendment to section 205 to allow for indexation of the statutory lump sum compensation paid under division 5.

Clause 27 make a consequential amendment to section 206 to construe the lump sum compensation entitlements to reflect any indexation applied under section 205.

Clause 28 inserts a new chapter 6A, Medical examination for former coal workers.

New section 325A specifies the former coal workers to whom this chapter applies. A former coal worker is defined to include a worker who was employed in an industry that involves mining, loading and transporting or otherwise dealing with coal and permanently stopped working before 1 January 2017. The examination will be available until 1 January 2022 which will give workers who retired before 1 January 2017 a five year period to access the examination.

New section 325B provides for former coal workers to apply to the insurer for approval to undergo a lung disease examination where the worker can demonstrate 6 months cumulative exposure to coal dust at the worker's place of employment in Queensland.

New section 325C provides for an insurer to decide whether to approve or refuse an application by a former coal worker for an examination.

New section 325D provides for the insurer to arrange and pay for the lung disease examination for the worker.

Clause 29 amends section 538 to give a worker a right to an internal review by the insurer of a decision to refuse an application for an examination.

Clause 30 amends section 540 to give a worker a right to a review of an insurer's decision to refuse an application for an examination. Under this section, the decision is reviewed by the workers' compensation regulator.

Clause 31 amends makes a consequential amendment to section 586 to include an approved form under section 325B which assists persons providing information required in an approved form.

Clause 32 inserts a new Chapter 34 which sets out the transitional provisions for the amendments.

New section 727 inserts a transitional provision to provide that the entitlement for pneumoconiosis applies to an injury sustained before or after commencement and where the application was lodged before or after commencement. However, where a worker's injury was sustained before commencement but not assessed under section 179 before commencement, division 5 applies to that worker.

New section 728 provides that the further lump sum compensation for permanent impairment applies to injuries sustained before commencement.

New section 729 applies to injuries sustained prior to commencement and provides that nothing in the Act prevents the calculation of a pneumoconiosis score for a worker as at a day prior to commencement.

Clause 33 inserts new definitions in the dictionary (schedule 6) for chest x-ray examination, coal mine dust lung disease, compensation under this part, examination application, former coal worker, ILO classification guidelines, increased pneumoconiosis score, lodgement age, lung disease examination, pneumoconiosis band, pneumoconiosis score, previous respiratory function examination and required minimum number. New definitions for 'offer' and 'worker' replace existing definitions in schedule 6.

## **Part 5 – Amendment of *Workers' Compensation and Rehabilitation Regulation 2014***

Clause 34 provides that this part amends the *Workers' Compensation and Rehabilitation Regulation 2014*.

Clause 35 inserts a new part 4, division 3AA, Entitlement to compensation for pneumoconiosis.

New section 112V provides that schedule 4B prescribes the way of working out a pneumoconiosis score.

New section 112W provides that the lump sum compensation and graduated scale for workers with pneumoconiosis are prescribed in schedule 4C. The way of reducing the amount of lump sum compensation and pneumoconiosis bands are also set out in schedule 4C.

Clause 36 inserts new schedule 4B (Pneumoconiosis score) and schedule 4C (Lump sum compensation for workers with pneumoconiosis).

Clause 37 inserts new definitions in the dictionary (schedule 13).

## **Part 6 – Amendment of *Work Health and Safety Act 2011***

Clause 38 provides that this part amends the *Work Health and Safety Act 2011*.

Clause 39 inserts a new Part 2A in schedule 2 of the *Work Health and Safety Act 2011* to provide arrangements for the establishment and operation of the Persons Affected by Work-related Fatalities and Serious Incidents Consultative Committee.

New section 23A, schedule 2 includes definitions for the following terms used in this part: 'affected person', 'affected persons committee', 'committee member' and 'workplace incident'. A 'workplace incident' means an incident that happens at a workplace, including a workplace to which this Act does not apply. This is intended to allow the affected persons committee to consider the information and support needs of affected persons more broadly to include workplaces not covered by the Act, for example, coal mines. This recognises that while different legislation and regulators may be involved in investigating work-related fatalities, serious injuries and illnesses, the families and other persons affected by these incidents may have similar experiences and the affected persons committee provides a mechanism for providing advice about their information and support needs.

New section 23B, schedule 2 establishes the Persons Affected by Work-related Fatalities and Serious Incidents Consultative Committee, which for this part is also referred to as the 'affected persons committee'.

New section 23C, schedule 2 provides that the primary function of the affected persons committee is to give advice and make recommendations to the Minister about the information and support needs of affected persons. This section also requires the regulator to give the committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

New section 23D, schedule 2 provides for the Minister to appoint members of the affected persons committee including a chairperson and deputy chairperson. This section allows for persons to be appointed as members of the committee if they represent an affected person, or a person affected, directly or indirectly by a 'relevant incident'. The term 'relevant incident' is defined for this section to mean an incident, involving death or serious injury or illness, if the circumstances of the incident are relevant to securing the health and safety of workers and workplaces. An example of this would be a mesothelioma fatality caused by non-work related asbestos exposure.

New section 23E, schedule 2 provides that committee member holds office for the term decided by the Minister, but not longer than 3 years. A committee member may be reappointed.

New section 23F, schedule 2 sets out the circumstances in which a committee member's office becomes vacant. It also provides that the Minister may, at any time, end the appointment of a committee member for any reason or none.

New section 23G, schedule 2 provides the conditions of appointment for a committee member.

New section 23H, schedule 2 provides leave of absence arrangements for the affected persons committee.

New section 23I, schedule 2 provides that, subject to the other requirements specified in division 4 (Proceedings), the affected persons committee may conduct its business in the way it considers appropriate.

New section 23J, schedule 2 specifies the quorum for the affected persons committee.  
New section 23K, schedule 2 sets out arrangements for the time and place of meetings of the affected persons committee.

New section 23L, schedule 2 provides for the chairpersons to preside at meetings of the affected persons committee and sets out arrangements for when the chairperson is absent.

New section 23M requires the affected persons committee to keep minutes.

New section 23N, schedule 2 specifies arrangements for disclosure of interest by committee members and when they should not be present or take part in consideration of an issue where the member has a direct interest and it could conflict with the proper performance of the member's duties.

New section 23O, schedule 2 sets out requirements for the affected persons committee to provide the Minister with an annual report about the performance of the committee's functions during the year.

Clause 40 inserts new defined terms for schedule 2, part 2A in the dictionary (schedule 5).

## **Part 7– Other amendments**

### **Schedule 1 – Other amendments**

Clause 41 provides that schedule 1 amends certain Acts to correct references to section numbers, makes consequential amendments to other legislation for consistency with amendments in the Bill.