

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, August 2024*



Queensland

**No.
A BILL for**

An Act to amend the Industrial Relations Act 2016, the Labour Hire Licensing Act 2017, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes



Queensland

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024

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2024

A Bill

for

An Act to amend the Industrial Relations Act 2016, the Labour Hire Licensing Act 2017, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024*.

2 Commencement

- (1) Section 15A(2) commences on the day after the *Industrial Relations Act 2016*, chapter 12, part 15A, as inserted by this Act, expires.
- (2) The following provisions commence on a day to be fixed by proclamation—
 - (a) sections 24 and 26;
 - (b) section 29, to the extent it inserts section 46B;
 - (c) section 34;
 - (d) sections 59 and 64.

Part 2 Amendment of Industrial Relations Act 2016

3 Act amended

This part amends the *Industrial Relations Act 2016*.

4 Amendment of s 21 (Meaning of *Queensland Employment Standards*)

- (1) Section 21(2)—

insert—

- (la) superannuation contributions—division 13A;
- (2) Section 21(2)(la) and (m)—
renumber as section 21(2)(m) and (n).

5 Amendment of ch 2, pt 3, div 8, hdg (Parental leave)

Chapter 2, part 3, division 8, heading, after ‘Parental’—

insert—

and related

6 Amendment of s 78 (Cancelling parental leave)

- (1) Section 78(4), after paragraph (a)—

insert—

(aa) late term pregnancy leave under section 85AA; or

- (2) Section 78(4)(aa) to (c)—

renumber as section 78(4)(b) to (d).

7 Insertion of new s 85AA

After section 85—

insert—

85AA Late term pregnancy leave

- (1) A pregnant employee is entitled to unpaid leave (*late term pregnancy leave*) for a period immediately before the employee starts birth-related leave.
- (2) Late term pregnancy leave cannot start earlier than 6 weeks before the expected date of birth.
- (3) The employee must, before starting the leave,

[s 8]

give the employer at least 4 weeks written notice of intention to take the leave.

- (4) The employee may withdraw the notice of intention to take late term pregnancy leave by written notice to the employer before the leave starts.
- (5) Subject to subsection (6), late term pregnancy leave must be taken as a single continuous period continuing until the employee starts birth-related leave.
- (6) Late term pregnancy leave may be interrupted by special pregnancy-related leave or sick leave under section 85.
- (7) If, while an employee is taking late term pregnancy leave, the pregnancy ends other than by the birth of a living child, the employee is entitled to resume work at a time nominated by the employer within 2 weeks after the day on which the employee gives the employer a written notice stating—
 - (a) that the employee intends to resume work; and
 - (b) the reason for the resumption.

8 Amendment of s 87B (Flexible parental leave)

- (1) Section 87B(1)(b), ‘, if any,’—

omit, insert—

, and any late term pregnancy leave the employee has taken under section 85AA,

- (2) Section 87B(2)—

omit, insert—

- (2) The maximum number of days of unpaid flexible parent leave the employee is entitled to in relation

to the child is—

- (a) 100 days; or
- (b) if a greater number of days is prescribed by regulation, the prescribed number of days.

(3) Section 87B(3)(a)(i), after 'child'—

insert—

under subdivision 2 and any late term pregnancy leave the employee has taken under section 85AA

9 Insertion of new ch 2, pt 3, div 13A

Chapter 2, part 3—

insert—

Division 13A Superannuation contributions

127A Employer's obligation to make superannuation contributions

An employer must make contributions to a superannuation fund for the benefit of an employee so the employer is not liable to pay superannuation guarantee charge under the *Superannuation Guarantee Charge Act 1992* (Cwlth) in relation to the employee.

127B Reduction of employer's liability to the extent of superannuation charge payments

- (1) The obligation to make contributions for an employee under section 127A does not apply to an employer to the extent that—
 - (a) a charge payment has been made by or on behalf of the employer in respect of the employee under part 8 of the SGA Act; and

[s 10]

- (b) the employee is a benefiting employee; and
 - (c) the commissioner is required to pay, or otherwise deal with, a shortfall component for the benefit of the employee under part 8 of the SGA Act.
- (2) A term used in this section that is defined in part 8 of the SGA Act has the meaning given under that part.
- (3) In this section—
- commissioner* means the Commissioner of Taxation under the SGA Act, section 6(1).
- SGA Act* means the *Superannuation Guarantee (Administration) Act 1992* (Cwlth).

10 Amendment of s 386 (Recovery of unpaid wages)

Section 386(2)(a), '\$50,000'—
omit, insert—
\$100,000

11 Amendment of s 476 (Requirements for application)

Section 476(1), '\$50,000'—
omit, insert—
\$100,000

12 Amendment of s 531 (Decisions of the commission and magistrates)

Section 531(6), definition *relevant amount*, paragraph (a), '\$50,000'—
omit, insert—
\$100,000

14A Insertion of new ch 11, pt 8, div 4

Chapter 11, part 8—

insert—

Division 4 Miscellaneous

578AA Other orders for contravention of s 876K or 876P

- (1) This section applies if a person contravenes the civil penalty provision in section 876K(2) or 876P(1).
- (2) On an application under section 572, the relevant industrial tribunal may make any other order the tribunal considers appropriate.
- (3) Without limiting subsection (2), the relevant industrial tribunal may make an order requiring a person to comply, wholly or partly, with a notice given to the person under section 876K(1).
- (4) This section applies whether or not a civil penalty order is made in relation to the contravention.

578AB Expiry

This division expires on the day chapter 12, part 15A expires.

14B Insertion of new ch 12, pt 15A

Chapter 12—

insert—

**Part 15A Administration of C&G
division of CFMEUQ**

Division 1 Preliminary

[s 14B]

876A Application of part

This part applies if the Construction and General Division of the CFMEU (federal), and its branches, have been placed under administration under the Commonwealth Registered Organisations Act.

876B Purpose of part

- (1) The purpose of this part is to enable the C&G division to be placed under administration to—
 - (a) protect the public interest; and
 - (b) ensure the C&G division acts lawfully and appropriately and in the interests of its members; and
 - (c) complement any corresponding administration scheme that is in effect.
- (2) In this section—

corresponding administration scheme means—

- (a) the administration scheme for the Construction and General Division of the CFMEU (federal) mentioned in section 876A; or
- (b) a scheme for the administration, under the *Industrial Relations Act 1996* (NSW), of the Construction and General Division of the organisation of employees registered under that Act with the registration number EE70.

876C Definitions for part

In this part—

administration notice see section 876E(2).

administration scheme see section 876E(2)(a).

administrator means a person appointed, under an administration notice or a gazette notice under section 876F(2), as the administrator of the C&G division.

CFMEU (federal) means the CFMEU within the meaning of the Commonwealth Registered Organisations Act, schedule 3, clause 1.

CFMEUQ means—

- (a) the organisation named, immediately before the commencement, the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland; or
- (b) if the organisation mentioned in paragraph (a) changes its name—the organisation under its new name; or
- (c) if the organisation mentioned in paragraph (a) amalgamates with another organisation under part 14, division 2—the amalgamated organisation.

CFMEUQ rules means the rules of the CFMEUQ to the extent the rules relate to the C&G division.

C&G division means the State Construction and General Division within the meaning of the rules of the CFMEUQ as the rules were in effect immediately before the commencement.

876D C&G division placed under administration

- (1) The C&G division is placed under administration on the later of the following days—
 - (a) the day an administration notice takes effect under section 876G;
 - (b) the day an administrator is appointed under the administration notice.
- (2) The administration ends on the day the

[s 14B]

administration notice is revoked under section 876H.

Division 2 Making of administration scheme and appointment of administrator

876E Power of Minister to make administration notice

- (1) This section applies if the Minister is satisfied it is in the public interest for the C&G division to be placed under administration, having regard to—
 - (a) the purpose of this part; and
 - (b) any other matters the Minister considers relevant.
- (2) The Minister must, by gazette notice (an *administration notice*)—
 - (a) establish a scheme for the administration of the C&G division (the *administration scheme*); and
 - (b) appoint a person to be administrator of the scheme.
- (3) The administration notice is a statutory instrument, but is not subordinate legislation.
- (4) Without limiting subsection (2)(a), the administration scheme may provide for any of the following matters—
 - (a) the functions and powers of the administrator in relation to the scheme;
 - (b) the suspension, including suspension without pay, or removal of officers of the C&G division;

- (c) the taking of disciplinary action, including the expulsion of members of the C&G division and disqualification of officers and former officers of the C&G division for up to 5 years;
 - (d) declaring stated offices in the C&G division to be vacant;
 - (e) terminating the employment of employees;
 - (f) the filling of positions of officers of the C&G division, including the holding of elections;
 - (g) altering the CFMEUQ rules;
 - (h) the engagement of persons to assist the administrator in performing the administrator's functions;
 - (i) the delegation of the administrator's functions or powers;
 - (j) requirements about reporting in relation to the administration;
 - (k) obligations of the administrator to cooperate with an inquiry by a law enforcement agency or regulatory body into—
 - (i) the CFMEUQ or the C&G division; or
 - (ii) officers or employees, or former officers or former employees, of the CFMEUQ or the C&G division;
 - (l) matters that are ancillary or incidental to the matters mentioned in any of paragraphs (a) to (k).
- (5) To remove any doubt, it is declared that the administration scheme may provide for the taking of disciplinary action in circumstances not provided for in the CFMEUQ rules.
- (6) The disqualification of an officer or former officer

[s 14B]

of the C&G division under the administration scheme is not limited by part 9, division 2.

- (7) The Minister is not required to provide procedural fairness in making the administration notice.

876F Period of administrator's appointment etc.

- (1) The administration notice may provide for—
- (a) the period of the administrator's appointment; and
 - (b) the terms of the administrator's appointment, including the remuneration the Minister considers appropriate.
- (2) The Minister may, by gazette notice, do any of the following—
- (a) terminate the appointment of the administrator;
 - (b) appoint another person as the administrator;
 - (c) vary the terms of the administrator's appointment.

876G When administration notice takes effect

The administration notice takes effect on—

- (a) the day the notice is published in the gazette; or
- (b) if a later day is stated in the notice—the stated day.

876H Variation and revocation of administration notice

- (1) The Minister may, by gazette notice—
- (a) vary the administration notice, including to vary the administration scheme; or

- (b) revoke the administration notice.
- (2) However, the administration notice must not be revoked earlier than the day that is 3 years after the day the scheme started unless—
 - (a) the administrator is satisfied the C&G division is functioning lawfully and appropriately and in the interests of its members; and
 - (b) the administrator gives the Minister a written notice stating the administrator is satisfied of the matter mentioned in paragraph (a).
- (3) In deciding whether to vary or revoke the administration notice, the Minister must have regard to—
 - (a) the purpose of this part; and
 - (b) any other matter the Minister considers relevant.
- (4) The Minister must obtain the consent of the administrator before varying or revoking the administration notice.
- (5) The Minister is not required to provide procedural fairness in varying or revoking the administration notice.

876I Interaction with chapter and CFMEUQ rules

- (1) This section applies if the administration notice or administration scheme is inconsistent with—
 - (a) a provision of this chapter; or
 - (b) the CFMEUQ rules.
- (2) The administration notice or administration scheme prevails to the extent of the inconsistency and is not limited by the provision of this chapter or the CFMEUQ rules.

[s 14B]

Division 3 Functions and powers of administrator

876J Functions and powers of administrator

- (1) While the C&G division is under administration, the administrator—
 - (a) has conduct and management of the affairs of the C&G division; and
 - (b) has control of, and may manage, the property of the C&G division; and
 - (c) may dispose of property of the C&G division; and
 - (d) may perform any function, or exercise any power, the C&G division could perform or exercise if it were not under administration.
- (2) To remove any doubt, it is declared that in performing functions and exercising powers as administrator, the administrator may undertake investigations into past practices of the C&G division.
- (3) The administrator also has the functions of—
 - (a) promoting compliance by the C&G division with the laws, including workplace laws, of the State and the Commonwealth; and
 - (b) ensuring officers and employees of the C&G division have complied (including before the commencement), and continue to comply, with their obligations under this chapter; and
 - (c) to the extent an officer or employee of the C&G division has not complied with an obligation under this chapter (including before the commencement)—as far as reasonably practicable, ensuring the officer

or employee is held accountable for the noncompliance.

- (4) In performing functions and exercising powers as administrator, the administrator must have regard to—
 - (a) the purpose of this part; and
 - (b) the objectives of the CFMEUQ as stated in the rules of the CFMEUQ as in effect on the commencement and to the extent the rules are lawful.
- (5) A reference in this section to property of the C&G division includes a reference to property of the CFMEUQ that, immediately before the commencement, was solely or predominantly used for the benefit or purposes of the C&G division.

876K Providing assistance to administrator

- (1) The administrator may, for performing the administrator's functions, by written notice to a relevant person, require the person to do the following—
 - (a) give the administrator documents in the person's possession that are reasonably required by the administrator to perform the functions;
 - (b) give the administrator any other information or assistance reasonably required by the administrator for the performance of the functions.
- (2) A relevant person who is given a notice under subsection (1) must comply with the notice unless the person has a reasonable excuse.

Notes—

- 1 This subsection is a civil penalty provision.

[s 14B]

- 2 See also section 571 in relation to persons involved in a contravention of a civil penalty provision.
- (3) It is a reasonable excuse for the relevant person not to comply with the notice if doing so might tend to incriminate the person.
- (4) In this section—
- relevant person* means—
- (a) an officer, agent or employee of the CFMEUQ or any of its divisions; or
 - (b) a former officer, agent or employee of the CFMEUQ or any of its divisions; or
 - (c) a person who provides, or provided, services to the CFMEUQ or the C&G division under a contract or agreement; or
 - (d) a person prescribed by regulation.

876L Reporting to Minister

- (1) The administrator must give the Minister a report about the operation of the administration scheme—
- (a) no later than 6 months after the administration notice takes effect under section 876G; and
 - (b) within 28 days after the end of each subsequent 6-month period until the administration notice is revoked under section 876H.
- (2) The Minister must table a copy of a report in the Legislative Assembly within 15 sitting days after the Minister receives the report.

876M Protection from liability

- (1) The administrator is not civilly liable for an act

done, or omission made, honestly and without negligence under this part.

- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.

876N Actions of administrator under administration scheme

- (1) Actions of the administrator, including actions mentioned in section 876E(4)(b) and (c), have effect—
 - (a) regardless of the ending of the administration under section 876D(2); and
 - (b) after the expiry of this part; and
 - (c) despite any provision of this chapter or the CFMEUQ rules.
- (2) A regulation may prescribe the effect of actions taken under the administration scheme for the purposes of other laws.
- (3) This section does not limit the *Acts Interpretation Act 1954*, sections 20 and 20A.

876O Application of pt 15, div 3

Part 15, division 3 does not apply in relation to the administrator in performing functions or exercising powers under this part.

Division 4 Other provisions for operation of administration scheme

[s 14B]

876P Anti-avoidance provision

- (1) A person must not, without a reasonable excuse, engage in conduct if, as a result of the conduct—
 - (a) another person is prevented from taking action under the administration scheme; or
 - (b) the administrator is prevented from effectively administering the administration scheme.

Maximum penalty—6,000 penalty units or 2 years imprisonment.

Notes—

- 1 This subsection is a civil penalty provision.
 - 2 See also section 571 in relation to persons involved in a contravention of a civil penalty provision.
 - 3 See also the Criminal Code, section 7 and section 937 of this Act in relation to parties to an offence against this subsection.
- (2) A criminal proceeding may be started against a person for a contravention of subsection (1) regardless of whether a civil penalty has been imposed on the person for the contravention.
 - (3) However, a civil penalty must not be imposed on a person on the grounds of a contravention of subsection (1) if the person has been convicted of an offence against subsection (1).
 - (4) This section applies despite section 571(1).
 - (5) In this section—

conduct includes a course of conduct.

convicted means found guilty, or having a plea of guilty accepted, by a court whether or not a conviction is recorded.

876Q Disclosure of information to administrator by registrar or inspector

- (1) This section applies to a person who is or was either of the following (each an *official*)—
 - (a) the registrar;
 - (b) an inspector.
- (2) The official may disclose to the administrator, for the purposes of the administration scheme, information about the C&G division that is in the official's possession or control.
- (3) The administrator may use information disclosed under this section for the purposes of the administration scheme.
- (4) A person who, acting honestly, discloses or uses information under this section is not liable, civilly, criminally or under an administrative process, for the disclosure or use.

876R Costs of administration

Subject to the administration notice, the costs of the administration, including the costs incurred by the administrator in acting under the administration scheme, are payable by the C&G division.

876S Alteration of CFMEUQ rules under administration scheme

- (1) This section applies if an alteration of the CFMEUQ rules is made under the administration scheme.
- (2) The administrator must, within 35 days after the alteration is made or a longer period decided by the registrar, file written notice of the particulars of the alteration.

[s 14B]

- (3) The notice must include a declaration by the administrator that—
 - (a) the alteration was made in accordance with the administration scheme; and
 - (b) the particulars stated in the notice are true and correct to the best of the administrator's knowledge and belief.
- (4) The registrar may, with the administrator's consent, amend the alteration to correct a typographical, clerical or formal error.
- (5) The alteration does not take effect unless—
 - (a) subsections (2) and (3) have been complied with for the alteration; and
 - (b) the registrar has certified that, in the registrar's opinion, the alteration—
 - (i) complies with, and is not contrary to, this Act, the Commonwealth Fair Work Act, modern awards and enterprise agreements; and
 - (ii) is not otherwise contrary to law; and
 - (iii) has been made in accordance with the administration scheme.
- (6) The alteration takes effect on the day it is certified under subsection (5).
- (7) This section applies despite part 6.

876T Decision about excluded matter final

- (1) Unless the Supreme Court decides that a decision about an excluded matter is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in

question in any other way under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) The *Judicial Review Act 1991*, part 5 applies to a decision about an excluded matter to the extent it is affected by jurisdictional error.
- (3) In this section—

excluded matter means a decision to make, vary or revoke an administration notice.

Division 5 Expiry

876U Expiry

This part expires on the day that is 5 years after the day this section commences.

15 Insertion of new ch 18, pt 7

Chapter 18—

insert—

Part 7 Transitional provision for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024

[s 15A]

1103 Entitlement to late term pregnancy leave and increased period of flexible parental leave

- (1) Section 85AA as in force from the commencement applies in relation to a pregnant employee regardless of whether the pregnancy started before or after the commencement.
- (2) Section 87B as in force from the commencement applies in relation to an employee regardless of whether the employee became entitled to the parental leave under chapter 2, part 3, division 8, subdivision 2 mentioned in that section before or after the commencement.

15A Amendment of sch 3 (Civil penalties)

- (1) Schedule 3—

insert—

Chapter 12—Industrial organisations and associated entities			
s 876K(2) (Providing assistance to administrator)	(a)	the administrator the under chapter 12, part 15A	1,200 commission penalty units
	(b)	a person prescribed by regulation	
s 876P(1) (Anti-avoidance provision)	(a)	the administrator the under chapter 12, part 15A	1,200 commission penalty units
	(b)	a person prescribed by regulation	

- (2) Schedule 3, entry for chapter 12, as inserted by this section—

omit.

16 Amendment of sch 5 (Dictionary)

Schedule 5—

insert—

late term pregnancy leave, for chapter 2, part 3, division 8, see section 85AA(1).

Part 3 Amendment of Labour Hire Licensing Act 2017

17 Act amended

This part amends the *Labour Hire Licensing Act 2017*.

18 Amendment of s 69 (Power to require reasonable help)

Section 69(4)—

omit.

19 Relocation and renumbering of s 71 (Power to require information or attendance)

Section 71—

relocate to part 6, division 3A as inserted by this Act and *renumber* as section 84A.

20 Insertion of new pt 6, div 3A, hdg

Part 6—

insert—

Division 3A Power to require information or attendance

[s 21]

21 Insertion of new s 107A

After section 107—

insert—

107A Service of documents

- (1) This section applies if a provision of this Act requires or permits a document to be given to a person by the chief executive or an inspector.
- (2) For the *Acts Interpretation Act 1954*, section 39, the address of the person's place of residence or business includes the person's postal address.
- (3) Without limiting the *Acts Interpretation Act 1954*, section 39, the document may—
 - (a) be sent by email to the person's email address last notified to the chief executive by the person; or
 - (b) be made available to the person or given in a way prescribed by regulation.
- (4) The document is taken to be given—
 - (a) if sent by email—on the day the email is sent; or
 - (b) if made available to the person or given in a way prescribed by regulation—on the day prescribed by regulation.
- (5) However, if the document is given after 5p.m. on a particular day, the document is taken to be given to the person on the next business day.

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

22 **Act amended**

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

Note—

See also the amendments in schedule 1.

23 **Amendment of s 5 (Workers' compensation scheme)**

(1) Section 5—

insert—

(4A) It is also intended that workers and employers understand that they may, as they consider appropriate, seek advice and support in relation to the scheme from a lawyer or a registered industrial organisation.

(2) Section 5(4A) and (5)—

renumber as section 5(5) and (6).

24 **Amendment of s 11 (Who is a worker)**

Section 11(1)—

omit, insert—

(1) A **worker** is—

(a) a person who—

(i) works under a contract; and

(ii) in relation to the work, is an employee for the purpose of assessment of PAYG withholding under the *Taxation*

[s 25]

Administration Act 1953 (Cwlth),
schedule 1, chapter 2, part 2-5; or

- (b) a person who is a regulated worker under the *Fair Work Act 2009* (Cwlth) if—
 - (i) a minimum standards order, minimum standards guideline or collective agreement applies to, or covers, the person under chapter 3A of that Act; and
 - (ii) the person is prescribed by regulation to be a worker.

25 Amendment of s 12 (Entitlements of persons mentioned in sdiv 1)

Section 12(1), before paragraph (a)—

insert—

- (aa) an entitlement to a basic weekly payment under chapter 3, part 9, division 2A; and

26 Amendment of s 30 (Who is an employer)

Section 30(4), after 'section'—

insert—

and schedule 3

27 Amendment of s 36E (Deciding number of years)

- (1) Section 36E(2)(a), 'firefighting'—

omit, insert—

performing duties that included relevant duties

- (2) Section 36E(2)(b), 'attended fires'—

omit, insert—

performed relevant duties

(3) Section 36E(4)—

omit, insert—

(4) In this section—

relevant duties means duties that involve—

- (a) extinguishing, controlling or preventing the spread of fires; or
- (b) exposure to substances used in, or other hazards arising from, extinguishing, controlling or preventing the spread of fires.

28 Amendment of ch 2, pt 1, hdg (Employer's legal liability)

Chapter 2, part 1, heading, after 'liability'—

insert—

and preliminary obligations

29 Insertion of new ss 46A and 46B

After section 46—

insert—

46A Employer must not take action to avoid compensation process

- (1) An employer must not give a benefit or cause detriment to a person if the reason is to influence a worker who has sustained an injury to refrain from—
 - (a) making an application for compensation for the injury; or
 - (b) otherwise pursuing an entitlement to compensation for the injury.

Maximum penalty—500 penalty units.

- (2) It does not matter if the reason is the only or main reason, as long as it is a substantial reason.

[s 30]

- (3) An employer gives a benefit to a person if the employer—
 - (a) gives or offers to give the worker or another person a financial or other benefit; or
 - (b) causes or permits someone else to give or offer to give the worker or another person a financial or other benefit.
- (4) An employer causes detriment to a person if the employer causes detriment to the worker or another person.

46B Employer must give worker information statement

- (1) An employer must, before or as soon as practicable after a worker starts employment, give the worker a statement providing information about the workers' compensation scheme.
Maximum penalty—50 penalty units.
- (2) However, an employer need not give the statement to a worker if the statement has been given to the worker by the employer within the previous 12 months.
- (3) The statement, and the way in which it is given, must comply with any requirements prescribed by regulation.

30 Amendment, relocation and renumbering of s 47 (WorkCover's liability confined to compensation)

- (1) Section 47, heading, from 'WorkCover's' to 'compensation'—

omit, insert—

**Liability to pay compensation does not make
WorkCover an employer**

(2) Section 47—

relocate to chapter 1, part 4, division 5 and *renumber* as section 30A.

31 Amendment of s 51 (Offence of contravening general obligation to insure)

Section 51(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

32 Amendment of s 52 (Offence to charge worker for compensation or damages for injury)

Section 52, penalty—

omit, insert—

Maximum penalty—300 penalty units.

33 Amendment of s 109 (Who must pay compensation)

Section 109(3) and (4)—

insert—

Maximum penalty—300 penalty units.

34 Insertion of new s 132AA

After section 132—

insert—

132AA Insurer must give worker and employer information statement

- (1) The insurer must, as soon as practicable after an application for compensation for an injury sustained by a worker is lodged—

[s 35]

- (a) give the worker a statement providing information about the workers' compensation scheme relevant to workers; and
- (b) give the worker's employer a statement providing information about the workers' compensation scheme relevant to employers.

Maximum penalty—50 penalty units.

- (2) The statements, and the way in which they are given, must comply with any requirements prescribed by regulation.

35 Insertion of new ch 3, pt 9, div 2A

Chapter 3, part 9—

insert—

Division 2A Commencement of weekly payments

146A Employer to provide necessary information to WorkCover

- (1) This section applies if—
 - (a) an application for compensation for an injury sustained by a worker is lodged with WorkCover; and
 - (b) WorkCover does not have the information necessary to calculate the weekly payment of compensation to which the worker will be entitled if the application is allowed.
- (2) WorkCover must, before or immediately after allowing the application for compensation, give a written notice to the worker's employer requesting the necessary information.

- (3) The notice must state—
- (a) that the employer must give WorkCover the necessary information stated in the notice within 5 business days after receiving the notice; and
 - (b) that it is an offence to fail to comply with the notice without reasonable excuse; and
 - (c) that a penalty may be imposed by WorkCover for failure to comply with the notice.
- (4) The employer must comply with the notice, unless the employer has a reasonable excuse.
- Maximum penalty—300 penalty units.
- (5) WorkCover may require the employer to pay WorkCover an amount by way of penalty if—
- (a) the employer fails to comply with the notice; and
 - (b) WorkCover pays the worker an amount of compensation as a basic weekly payment under section 146B.
- (6) The amount of the penalty is equal to the difference between the following—
- (a) the amount of weekly payments of compensation to which the worker is entitled for the period—
 - (i) commencing 5 business days after the notice requiring the employer to give the necessary information to WorkCover is received by the employer; and
 - (ii) ending on the last day for which the worker is paid a basic weekly payment under section 146B;

[s 35]

- (b) the amount of compensation that is paid as a basic weekly payment under section 146B to the worker for the same period.
- (7) WorkCover may recover the amount from the employer—
 - (a) as a debt; or
 - (b) as an addition to a premium payable by the employer.
- (8) The employer may apply to WorkCover in writing to waive or reduce the penalty because of extenuating circumstances.
- (9) The application must specify the extenuating circumstances and the reasons the penalty should be waived or reduced in the particular case.
- (10) WorkCover must consider the application and may—
 - (a) waive or reduce the penalty; or
 - (b) refuse to waive or reduce the penalty.
- (11) If the employer is dissatisfied with WorkCover's decision, the employer may have the decision reviewed under chapter 13.

146B Requirement to pay basic weekly payment while waiting for information

- (1) This section applies if the insurer—
 - (a) makes a decision to allow a worker's application for compensation; and
 - (b) does not have the information necessary to calculate the weekly payment of compensation to which the worker is entitled.
- (2) This section applies whether or not the insurer advances amounts to the worker under section

146.

- (3) The insurer must commence making a basic weekly payment of compensation to the worker on the later of the following—
- (a) the expiry of 5 business days after the day the decision to allow the worker's application for compensation is made;
 - (b) the expiry of the excess period in relation to the worker.

Maximum penalty—300 penalty units.

- (4) If the worker is engaged in full-time work, the basic weekly payment of compensation must be—
- (a) an amount equal to 55% of QOTE; or
 - (b) if a different amount is prescribed by regulation—that amount.
- (5) If the worker is not engaged in full-time work, the basic weekly payment of compensation must be an amount—
- (a) not greater than the amount that would be payable for a worker engaged in full-time work; and
 - (b) calculated—
 - (i) as prescribed by regulation; or
 - (ii) if a method of calculation is not prescribed by regulation—on a pro rata basis having regard to the hours usually worked by the worker in the preceding 4 weeks or a reasonable estimate of those hours.
- (6) The basic weekly payment of compensation must continue until the insurer is able to commence paying the weekly payment of compensation to which the worker is entitled.

[s 36]

146C Commencing full weekly payment

The insurer must, as soon as practicable after making a decision to allow a worker's application for compensation, commence making the weekly payment of compensation to which the worker is entitled.

36 Amendment of s 179 (Assessment of permanent impairment)

(1) Section 179(1), after 'impairment'—

insert—

(a *DPI*)

(2) Section 179(2), 'degree of permanent impairment'—

omit, insert—

DPI

(3) Section 179(3)—

omit, insert—

(3) The assessment must be made as required by the scheme directions and the DPI must be expressed as a percentage.

(3A) A report of the assessment must be prepared and given to the insurer as required by the scheme directions.

(4) Section 179(4)(a) and (b), 'degree of permanent impairment'—

omit, insert—

DPI

(5) Section 179—

insert—

(5) A regulation may—

- (a) prescribe additional requirements that must be met for an audiologist, a member of the medical assessment tribunal or a doctor to be authorised to make a DPI assessment; and
 - (b) provide for the suspension or cancellation of an authorisation mentioned in paragraph (a); and
 - (c) establish a process for the review of a DPI assessment or decision; and
 - (d) provide for any other matter affecting a DPI assessment or decision.
- (6) Section 179(3A) to (5)—
renumber as section 179(4) to (6).

37 Omission of s 183 (Guidelines for assessing a worker's degree of permanent impairment and deciding DPI)

Section 183—
omit.

38 Replacement of ch 4, pt 1 (Application)

Chapter 4, part 1—
omit, insert—

Part 1 Introduction

208 Objects of ch 4

The objects of this chapter are to ensure—

- (a) injured workers receive appropriate medical treatment, hospitalisation and rehabilitation; and

[s 39]

- (b) workers who have sustained psychiatric or psychological injuries receive support as early as possible; and
- (c) workers who have sustained physical injuries and who are at risk of sustaining a psychiatric or psychological injury arising from the physical injury receive services to minimise the risk.

208A Application of pts 2–5

- (1) Parts 2 to 5 apply if a worker sustains an injury for which compensation under chapter 3 is payable.
- (2) Part 2, division 4 also applies if part 5A or 5B applies in relation to the worker.

208B Rights of worker in relation to medical treatment

If a worker sustains an injury, the insurer and the worker's employer must not interfere in, or act in a manner inconsistent with, the worker's right to choose—

- (a) the registered person who will provide medical treatment for the injury; and
- (b) who is present during medical treatment for the injury.

39 Amendment of s 219 (Extent of liability for travelling expenses)

Section 219(1)—

insert—

- (e) receiving services provided under part 5A or 5B.

40 Amendment of s 220 (Insurer's responsibility for rehabilitation and return to work)

(1) Section 220(1), penalty—

omit, insert—

Maximum penalty—1,000 penalty units.

(2) Section 220—

insert—

(1A) The steps must include, but are not limited to, the steps prescribed by this section and sections 221 and 221AA.

(3) Section 220(5)—

omit.

(4) Section 220(7)—

omit.

(5) Section 220(1A) to (4)—

renumber as section 220(2) to (5).

41 Insertion of new ss 221 and 221AA

After section 220—

insert—

221 Steps for rehabilitation and return to work—rehabilitation and return to work plan

(1) In securing the worker's rehabilitation and early return to suitable duties, the insurer must ensure there is a written plan (a *rehabilitation and return to work plan*) for the worker that outlines—

(a) the rehabilitation objectives for the worker;
and

(b) the steps required to achieve the objectives.

(2) The rehabilitation and return to work plan must be in place within 10 business days after the

[s 41]

worker's application for compensation is allowed.

- (3) The insurer must ensure the rehabilitation and return to work plan—
 - (a) is reviewed and modified as further information becomes available, the worker's progress against the plan is assessed and decisions are made; and
 - (b) is prepared and reviewed in consultation with the worker, the worker's employer and registered persons treating the worker, to the extent that it is reasonably practicable to do so.

221AA Steps for rehabilitation and return to work—provider of workplace rehabilitation services

- (1) In securing the worker's rehabilitation and early return to suitable duties, the insurer must ensure that each provider of workplace rehabilitation services meets the requirements prescribed by the scheme directions.
- (2) Without limiting the requirements that may be prescribed by scheme directions, the scheme directions may prescribe requirements for providers of workplace rehabilitation services relating to—
 - (a) service delivery; and
 - (b) competency and professional standards.
- (3) If requirements are prescribed by scheme directions or the prescribed requirements change, a provider of workplace rehabilitation services must meet the new or changed requirements as soon as practicable.
- (4) If a worker is dissatisfied with a provider of workplace rehabilitation services, the worker may

request the insurer to secure services for the worker from a different provider chosen by the worker.

- (5) The insurer must accommodate the request if it is practicable to do so and it would not, in the opinion of the insurer, be likely to adversely affect the worker's rehabilitation and early return to suitable duties.

42 Amendment of s 228 (Employer's obligation to assist or provide rehabilitation)

- (1) Section 228(1) to (4)—

omit, insert—

- (1) The employer of a worker who has sustained an injury must—
- (a) take the action required by the scheme directions to be taken to assist or provide the worker with rehabilitation during the prescribed period for the worker; and
 - (b) take all other reasonable steps to assist or provide the worker with rehabilitation during the prescribed period for the worker; and
 - (c) cooperate with the insurer by taking all reasonable steps to support the insurer to meet the insurer's obligations under section 220.

Maximum penalty—500 penalty units.

- (2) If the employer forms the opinion that it is not practicable to provide the worker with rehabilitation in the form of a suitable duties program, the employer must give the insurer a written notice stating the evidence relied on to support the opinion.

[s 43]

Maximum penalty—100 penalty units.

- (3) The insurer must, as soon as practicable after receiving the employer's notice—
 - (a) consider the evidence and form the insurer's own opinion; and
 - (b) if the insurer is not satisfied by the evidence provided—
 - (i) inform the employer of that opinion and the reasons for it; and
 - (ii) give the employer a reasonable opportunity to make submissions and provide further evidence.

Maximum penalty—100 penalty units.

- (2) Section 228(5)—
renumber as section 228(4).

43 Insertion of new ch 4, pt 4A

Chapter 4—

insert—

Part 4A Obligation of person to whom labour hire worker supplied

229A Obligation of person to whom labour hire worker supplied

- (1) If a worker sustains an injury as a labour hire worker supplied to another person, the person to whom the worker is supplied must cooperate with the worker's employer by taking all reasonable steps to support the employer to meet the employer's obligations under section 228.

Maximum penalty—300 penalty units.

(2) In this section—

labour hire worker means a worker mentioned in schedule 2, part 1, item 5.

44 Amendment of s 232AB (Insurer's responsibility for providing support to worker)

Section 232AB(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

45 Amendment of s 232B (Dismissal of injured worker only after 12 months)

Section 232B(1), penalty—

omit, insert—

Maximum penalty—500 penalty units.

46 Insertion of new ch 4, pt 5B

Chapter 4—

insert—

Part 5B Minimising risk of psychological harm

232AC Minimising risk of psychological harm

- (1) This section applies if an insurer allows an application for compensation for a physical injury sustained by the worker.
- (2) The insurer must take all reasonable steps to minimise the risk of the worker sustaining a psychiatric or psychological injury arising from

[s 47]

the physical injury, including by providing reasonable services to the worker.

Maximum penalty—500 penalty units.

- (3) The insurer's obligation ends on the day the worker's entitlement to compensation ends.
- (4) This section does not limit the insurer's other obligations under another part of this chapter, including the obligation to pay for medical treatment for the injury sustained by the worker.

232AD Extent of liability for fees and costs

If medical treatment or other services are provided to a worker under section 232AC, the insurer must pay the following fees or costs—

- (a) for medical treatment or other services provided to the worker to which a table of costs applies—the fees or costs accepted by the insurer to be reasonable, having regard to the relevant table of costs;
- (b) for services to which a table of costs does not apply—the fees or costs approved by the insurer.

47 Amendment of s 232K (Meaning of *excluded treatment, care or support*)

Section 232K(4), definition *register of providers*, 'and made available on the department's website'—

omit, insert—

under section 329B

48 Omission of ch 6B, pt 5 (Requirement to report non-compliance with chapter)

Chapter 6B, part 5—

omit.

49 Insertion of new ss 329A and 329B

After section 329—

insert—

329A Scheme directions

- (1) The Regulator may, with the approval of the Minister, make the following scheme directions—
 - (a) scheme directions required or permitted to be made by a provision of this Act;
 - (b) scheme directions providing for matters prescribed by regulation.
- (2) Scheme directions are taken to be subordinate legislation that is exempt subordinate legislation.

329B Scheme registers

- (1) The Regulator must keep the following registers—
 - (a) a register of persons authorised to make DPI assessments under section 179;
 - (b) a register of providers of attendant care and support and other services as mentioned in section 232K;
 - (c) any other register prescribed by regulation.
- (2) The Regulator may make a register publicly available on the department's website or available to insurers or employers by other means the Regulator considers appropriate.

50 Replacement of s 486A (Code of practice)

Section 486A—

[s 50]

omit, insert—

486A Codes of practice

- (1) The Minister may make codes of practice under this Act.
- (2) A code of practice may state action to be taken by an insurer, employer or other person in performing functions, exercising powers or complying with obligations under this Act.

Examples—

A code of practice may state action to be taken in relation to the following—

- (a) training and development for claims managers or other staff or contractors;
 - (b) referring workers to early support services for psychiatric or psychological injuries;
 - (c) managing complaints against providers of workplace rehabilitation services or employers.
- (3) In particular, a code of practice may prescribe, for a reasonable steps offence, steps that are reasonable steps.
 - (4) A code of practice is taken to be subordinate legislation that is exempt subordinate legislation.
 - (5) The Minister must review a code of practice at least once every 5 years.
 - (6) In this section—

reasonable steps offence means—

- (a) an offence against—
 - (i) section 220(1); or
 - (ii) section 228(1)(b) or (c); or
 - (iii) section 229A; or
 - (iv) section 232AB(1); or
 - (v) section 232AC(2); or

-
- (b) an offence prescribed by regulation to be a reasonable steps offence.

51 Amendment of s 486B (Effect of code of practice)

- (1) Section 486B(1), after 'a code of practice'—

insert—

made under section 486A

- (2) Section 486B(1), 'an insurer'—

omit, insert—

a person

- (3) Section 486B(1), 'its functions, exercise its powers and meets its obligations'—

omit, insert—

the person's functions, exercise the person's powers, or comply with the person's obligations

- (4) Section 486B(2)—

omit, insert—

- (2) A person to whom a code of practice made under section 486A applies must take the action stated in the code for performing the person's functions, exercising the person's powers, or complying with the person's obligations, under this Act.

Maximum penalty—

- (a) for an offence committed in the capacity of an insurer—1,000 penalty units; or
- (b) for an offence committed in the capacity of an employer—500 penalty units; or
- (c) in any other case—300 penalty units.
- (3) Subsection (2) does not apply if the failure to take action stated in the code of practice constitutes an offence against another provision of this Act.

[s 52]

- (4) Subsection (5) applies in relation to a prosecution for—
 - (a) an offence against subsection (2); or
 - (b) an offence against another provision of this Act that is constituted by a failure to take action stated in a code of practice.
- (5) It is a defence for the defendant to prove that the defendant took action that is as effective as, or more effective than, the action stated in the code of practice.

52 Omission of s 536 (Duty to report fraud or false or misleading information or documents)

Section 536—

omit.

53 Insertion of new ch 12, pts 3 and 4

Chapter 12—

insert—

Part 3 Duty to report

537A Duty to report

- (1) WorkCover or a self-insurer must—
 - (a) inform the Regulator if WorkCover or the self-insurer forms a reasonable belief that a category 1 offence is being or has been committed; and
 - (b) give the Regulator the information WorkCover or the self-insurer has about the grounds for the belief.

Maximum penalty—50 penalty units.

- (2) An employer who is not a self-insurer must—
- (a) inform WorkCover if the employer forms a reasonable belief that a category 2 offence is being or has been committed; and
 - (b) give WorkCover the information the employer has about the grounds for the belief.

Maximum penalty—50 penalty units.

- (3) A regulation may prescribe how and when information must be given to the Regulator or WorkCover for the purposes of subsection (1) or (2).
- (4) Subject to a regulation made for subsection (3), the information must be given to the Regulator or WorkCover without delay.
- (5) In this section—

category 1 offence means—

- (a) an offence against any of the following—
 - (i) chapter 6B, part 2;
 - (ii) section 325P;
 - (iii) section 325R;
 - (iv) section 325T;
 - (v) section 533;
 - (vi) section 534; or
- (b) an offence prescribed by regulation to be a category 1 offence.

category 2 offence means—

- (a) an offence against—
 - (i) section 533; or
 - (ii) section 534; or

[s 53]

- (b) an offence prescribed by regulation to be a category 2 offence.

537B Protection from reprisal

- (1) A person must not cause, or attempt or conspire to cause, detriment to another person for either of the following reasons—
 - (a) the other person has made, or intends to make, an enforcement disclosure;
 - (b) the person believes the other person has made, or intends to make, an enforcement disclosure.

Maximum penalty—300 penalty units.

- (2) For subsection (1)—
 - (a) an attempt to cause detriment includes an attempt to induce a person to cause detriment; and
 - (b) the reason need not be the only or main reason for causing the detriment but must be a substantial reason.
- (3) The *Public Interest Disclosure Act 2010*, chapter 4 (except section 41) applies in relation to an enforcement disclosure as if—
 - (a) the enforcement disclosure were a public interest disclosure; and
 - (b) the contravention of this section relating to the enforcement disclosure were the taking of a reprisal under that Act; and
 - (c) the reference in section 43 of that Act to a contravention of section 40 of that Act were a reference to the contravention of this section; and

- (d) the provisions were subject to any other modifications prescribed by regulation for the purposes of this subsection.
- (4) In this section—
- enforcement disclosure*** means—
- (a) giving information to the Regulator or WorkCover under section 537A; or
 - (b) giving assistance or further information to the Regulator or WorkCover in relation to information given under section 537A.

Part 4 Compliance notices

537C Compliance notice

- (1) An authorised person appointed by the Regulator may give a person a written notice (a ***compliance notice***) requiring the person to take stated action, or to refrain from taking stated action, to prevent a contravention of this Act from continuing or being repeated.

Note—

If the contravention constitutes an offence, compliance with the compliance notice does not prevent prosecution for the alleged offence.

- (2) The authorised person must be satisfied on reasonable grounds that the person—
- (a) has contravened this Act; and
 - (b) the contravention is continuing or is likely to be repeated.
- (3) The compliance notice must state—
- (a) the name of the person to whom it is given; and

[s 53]

- (b) details of—
 - (i) the alleged contravention; and
 - (ii) the grounds relied on under subsection (2); and
 - (iii) the facts establishing the grounds; and
 - (c) the action required to be taken, or refrained from being taken, to prevent the contravention continuing or being repeated; and
 - (d) the day by which the notice must be complied with; and
 - (e) that failure to comply with the notice is an offence; and
 - (f) that the person may, within 10 business days after the day the notice is given to the person, apply to the Regulator for review of the compliance notice; and
 - (g) that, under section 537D(5), an application for review of the compliance notice stays the operation of the notice.
- (4) The action required to be taken, or refrained from being taken—
 - (a) may be expressed as action that may be chosen by the person from a range of stated measures; and
 - (b) must be relevant, reasonable and able to be followed.
 - (5) The day stated as the day by which the notice must be complied with must be reasonable in the circumstances.
 - (6) An authorised person appointed by the Regulator may, by written notice to the person to whom the compliance notice is given, amend the compliance notice—

- (a) by stating a later day by which the notice must be complied with; or
 - (b) by making a minor change to correct an error or for clarification.
- (7) An authorised person cannot amend the compliance notice under subsection (6) after the day by which the notice must be complied with.
- (8) The Regulator may, on the Regulator's own initiative, withdraw the compliance notice at any time by written notice to the person to whom it is given.
- (9) A compliance notice is not invalid only because of—
- (a) a formal defect or irregularity in the notice unless the defect or irregularity causes or is likely to cause substantial injustice; or
 - (b) a failure to use the correct name or address of the person to whom the notice is given if the notice sufficiently identifies the person and is served on the person.

537D Review by Regulator

- (1) A person to whom a compliance notice is given may apply to the Regulator for review of the compliance notice.
- (2) The application must be made within 10 business days after the day the compliance notice is given to the person.
- (3) The Regulator may, at any time, extend the time for making the application.
- (4) The application—
 - (a) must be made in the approved form and given to the Regulator; and

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- (b) must state the grounds on which the applicant seeks review; and
 - (c) may be accompanied by evidence or information the applicant wants considered in the review.
- (5) An application for review has the effect of staying the operation of the compliance notice until the review is decided and the period for appealing against the decision on the review expires.
- (6) The Regulator—
 - (a) must review the decision to issue the notice and the terms of the notice as issued or amended; and
 - (b) may ask the applicant to provide further information reasonably necessary for making a decision on the application.
- (7) The Regulator must decide the application within 10 business days after the day the application is made.
- (8) However, the time for making a decision may be extended if, in the opinion of the Regulator, the extension is reasonably necessary—
 - (a) to enable the applicant to provide further information; or
 - (b) to consider further information provided by the applicant.
- (9) In deciding a review, the Regulator has the same powers as an authorised person has to issue a compliance notice.
- (10) The Regulator may—
 - (a) confirm the compliance notice; or
 - (b) withdraw the compliance notice; or

- (c) withdraw the compliance notice and issue a new compliance notice in a form the Regulator considers appropriate.
- (11) The Regulator must give the applicant written notice of the Regulator's decision as soon as practicable.
- (12) The notice must state the reasons for the decision.
- (13) If the Regulator confirms the compliance notice or issues a new compliance notice, the notice must also state—
 - (a) that the applicant may appeal against the decision to the industrial commission within 20 business days after the day the notice is given; and
 - (b) that, under section 537E(4), an appeal against the decision stays the operation of the notice subject to an order of the industrial commission.

537E Appeal to industrial commission

- (1) An applicant for review of a compliance notice may appeal to the industrial commission against the Regulator's decision on the review.
- (2) The appeal must be started by filing a notice of appeal in the industrial registry within 20 business days after notice of the Regulator's decision is given to the person.
- (3) The industrial commission may, at any time, extend the time for making the appeal.
- (4) An appeal has the effect of staying the operation of the compliance notice until the appeal is finally decided.
- (5) However, the industrial commission may, on the application of the Regulator or on its own

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initiative, make an order lifting the stay on the operation of the compliance notice or a stated part of the compliance notice if satisfied that it is in the interests of justice to do so.

- (6) An order under subsection (5) may state a day by which the compliance notice, or the stated part of the compliance notice, to which the order relates must be complied with.
- (7) The Regulator and the appellant may be represented by a lawyer in the proceedings.
- (8) The Regulator must comply with a request of the industrial commission to give the commission—
 - (a) documents or things in the Regulator's possession or control that may be relevant to the appeal; or
 - (b) an additional statement containing stated further particulars relating to the Regulator's reasons for the decision.
- (9) In deciding the appeal, the industrial commission has the same powers as the Regulator in deciding the review of the compliance notice.
- (10) The *Industrial Relations Act 2016*, section 447(2), does not apply to the appeal.
- (11) The industrial commission may—
 - (a) confirm the Regulator's decision; or
 - (b) set aside the Regulator's decision and substitute another decision; or
 - (c) set aside the decision and return the matter to the Regulator with the directions the commission considers appropriate.
- (12) The industrial commission must give a written copy of the decision to the Regulator and appellant.
- (13) A regulation may prescribe circumstances in

which costs are in the industrial commission's discretion.

537F Offence of failure to comply with compliance notice

A person to whom a compliance notice is given must take action, or refrain from taking action, as stated in the notice.

Maximum penalty—300 penalty units.

54 Amendment of s 540 (Application of pt 2)

Section 540(1)(a)(iv), after '109A'—

insert—

, 146A

55 Amendment of s 544 (Decision-maker must give information to Regulator)

(1) Section 544—

insert—

(1A) The notice may state the way the information, documents and reasons must be given.

(2) Section 544(1A) to (3)—

renumber as section 544(2) to (4).

56 Amendment of s 579 (Summary proceedings for offences other than against ch 8)

Section 579(6), definition *prescribed offence*, paragraph (b), 'part 2'—

omit, insert—

part 2, 3 or 4

[s 57]

57 Replacement of s 587 (Service of documents)

Section 587—

omit, insert—

587 Service of documents

- (1) This section applies if a provision of this Act requires or permits a document to be given to a person by the Regulator, WorkCover or an authorised person.
- (2) For the *Acts Interpretation Act 1954*, section 39, the address of the person's place of residence or business includes the person's postal address.
- (3) Without limiting the *Acts Interpretation Act 1954*, section 39, the document may—
 - (a) be sent by email to the person's email address last notified to the Regulator or WorkCover by the person; or
 - (b) be made available to the person or given in a way prescribed by regulation.
- (4) The document is taken to be given—
 - (a) if sent by email—on the day the email is sent; or
 - (b) if made available to the person or given in a way prescribed by regulation—on the day prescribed by regulation.
- (5) However, if the document is given after 5p.m. on a particular day, the document is taken to be given to the person on the next business day.

58 Insertion of new ch 38

After chapter 37—

insert—

Chapter 38 Transitional provisions for Workers' Compensation and Rehabilitation and Other Legislation Amendment Act 2024

748 Definitions for chapter

In this chapter—

former, for a provision of this Act, means the provision in force immediately before the commencement of the provision in which the term is used.

new, for a provision of this Act, means the provision in force from the commencement of the provision in which the term is used.

749 Application of amendments relating to firefighters

New section 36E and new schedule 4A apply in relation to—

- (a) a worker who has made an application for compensation before the commencement if the insurer has not made a decision to allow or reject the application before the commencement; and
- (b) a worker who makes an application for compensation after the commencement.

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750 Commencing weekly payments

New sections 146A to 146C apply in relation to an application for compensation made after the commencement, regardless of whether the injury happened before or after the commencement.

751 GEPI taken to be scheme directions

From the commencement, the Guidelines for the Evaluation of Permanent Impairment, as in effect immediately before the commencement under former section 183, are taken to be scheme directions made for new section 179.

752 Guideline for rehabilitation to be scheme directions

From the commencement, the Guidelines for standard for rehabilitation (second edition), made by the Regulator and prescribed by regulation for former section 228(2), are taken to be scheme directions made for new section 228(1)(a).

753 Register of providers

From the commencement, the register kept under former section 232K is taken to be a register kept under new section 329B(1)(b).

59 Amendment of sch 3 (Who is an employer in particular circumstances)

Schedule 3—

insert—

- 9 A person is the employer of a person who is a worker under section 11(1)(b) if—
 - (a) the person is a regulated business under the *Fair Work Act 2009* (Cwlth); and

- (b) a minimum standards order, minimum standards guideline or collective agreement applies to, or covers, the person under chapter 3A of that Act; and
- (c) the person is prescribed by regulation to be the employer of the worker.

60 Amendment of sch 4A (Specified diseases)

Schedule 4A, table—

omit, insert—

Column 1 Disease	Column 2 Minimum number of years
asbestos related disease	15 years
malignant mesothelioma	15 years
multiple myeloma	15 years
primary site bladder cancer	15 years
primary site brain cancer	5 years
primary site breast cancer	10 years
primary site cervical cancer	10 years
primary site colorectal cancer	15 years
primary site kidney cancer	15 years
primary site leukaemia	5 years
primary site liver cancer	15 years
primary site lung cancer	15 years
primary site non-Hodgkins lymphoma	15 years
primary site oesophageal cancer	15 years

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Column 1 Disease	Column 2 Minimum number of years
primary site ovarian cancer	10 years
primary site pancreatic cancer	10 years
primary site penile cancer	15 years
primary site prostate cancer	15 years
primary site skin cancer	15 years
primary site testicular cancer	10 years
primary site thyroid cancer	10 years
primary site ureter cancer	15 years
primary site uterine cancer	10 years

61 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *DPI*, *employee organisation*, *GEPI* and *workplace*—

omit.

- (2) Schedule 6—

insert—

compliance notice see section 537C(1).

DPI see section 179(1).

employee organisation means an organisation of employees that is a registered industrial organisation.

registered industrial organisation means an organisation under—

- (a) the *Industrial Relations Act 2016*; or
- (b) the *Fair Work (Registered Organisations) Act 2009* (Cwlth).

scheme directions means scheme directions in force under section 329A.

provider of workplace rehabilitation services means a person who provides services for the rehabilitation of a worker, but does not include the worker's employer.

workplace—

(a) means a place where work is, is to be, or is likely to be, performed by a worker or employer and is a place—

(i) that is for the time being occupied by the employer or under the control or direction of the worker's employer; or

(ii) where the worker is under the control or direction of the worker's employer; and

(b) for chapter 12, part 1, includes a place of business of an insurer.

(3) Schedule 6, definition *table of costs*, 'or rehabilitation'—

omit, insert—

, rehabilitation or other goods or services

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

62 **Regulation amended**

This part amends the *Workers' Compensation and Rehabilitation Regulation 2014*.

Note—

See also the amendments in schedule 1.

[s 63]

63 Omission of s 116 (Standard for rehabilitation—Act, s 228(2))

Section 116—

omit.

64 Insertion of new s 144D

After section 144C—

insert—

144D Information statements—Act, ss 46B and 132AA

- (1) For sections 46B(3) and 132AA(2) of the Act, an information statement must be in the form approved by the Regulator.
- (2) Without limiting the content of an information statement, the statement must include information about the provisions in the workers' compensation scheme for a worker—
 - (a) to make an application for compensation for an injury sustained by the worker; and
 - (b) to choose the registered person who will provide medical treatment for the injury; and
 - (c) to choose who is present during medical treatment for the injury; and
 - (d) to choose a different workplace rehabilitation provider if dissatisfied with a provider chosen by the insurer; and
 - (e) to be consulted in the preparation and review of a rehabilitation and return to work plan under section 221 of the Act; and
 - (f) to seek advice and support from a lawyer or a registered industrial organisation as the worker considers appropriate.

Part 6 Other amendments

65 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 65

Workers' Compensation and Rehabilitation Act 2003

1 Section 42(c), 'section 220(5)'—

omit, insert—

section 221

2 Chapter 3, part 9, division 3, heading, 'pt 9'—

omit, insert—

part 9

3 Section 186(2)(b)(i), from 'by an entity' to 'section 179(3))'—

omit, insert—

by a different entity agreed to by the worker and the insurer

4 Section 220(4)(a) as amended by this Act, 'subsection (2)(b) and (c)'—

omit, insert—

subsection (3)(b) and (c)

5 Section 220(4)(b) as amended by this Act, 'subsection (2)(c)'—

omit, insert—

subsection (3)(c)

- 6 Section 220(5) as amended by this Act, ‘subsection (2)’—**
omit, insert—
subsection (3)
- 7 Section 220(6)(a), ‘subsection (3)’—**
omit, insert—
subsection (4)
- 8 Section 220(6)(a), ‘subsection (2)(b) or (c)’—**
omit, insert—
subsection (3)(b) or (c)
- 9 Section 220(6)(b), ‘subsection (4)’—**
omit, insert—
subsection (5)
- 10 Section 305D(3)(b), ‘he or she’—**
omit, insert—
the worker
- 11 Section 305D(3)(b), ‘his or her’—**
omit, insert—
the worker’s
- 12 Section 325Q(2), examples, ‘an industrial organisation’—**
omit, insert—
a registered industrial organisation

- 13 Section 325S(2)(a)(ii)—**
omit, insert—
(ii) a registered industrial organisation; or
- 14 Section 325S(3), definition *industrial organisation*—**
omit.
- 15 Section 325T(3)(c)(i), before ‘industrial’—**
insert—
registered
- 16 Section 325T(5), definition *industrial organisation*—**
omit.
- 17 Section 326(3), ‘his or her other’—**
omit, insert—
another
- 18 Section 469(1)(a), ‘his or her’—**
omit, insert—
the authorised person’s
- 19 Section 523(2)(a), ‘himself or herself’—**
omit, insert—
themselves
- 20 Section 523(3), ‘he or she’—**
omit, insert—

the authorised person or assistant

21 Section 524(1)(a)—

omit, insert—

(a) produce the authorised person's identity card to that person for inspection; and

22 Section 540(1)(a)(xiiia) and (1)(b)(viaa), 'section 220(3)'—

omit, insert—

section 220(4)

23 Section 540(1)(a)(xiiab) and (1)(b)(viab), 'section 220(4)'—

omit, insert—

section 220(5)

24 Section 586B(3)(e), 'he or she'—

omit, insert—

the employee

Workers' Compensation and Rehabilitation Regulation 2014

1 Section 114(c), 'section 220(5)'—

omit, insert—

section 221

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