

South Australia



**STATUTES AMENDMENT (WORKERS REHABILITATION AND
COMPENSATION) ACT 1995**

No. 105 of 1995

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ELIZABETHAE II REGINAE

A.D. 1995

No. 105 of 1995

An Act to amend the Workers Rehabilitation and Compensation Act 1986 and the WorkCover Corporation Act 1994.

[Assented to 14 December 1995]

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. (1) This Act may be cited as the *Statutes Amendment (Workers Rehabilitation and Compensation) Act 1995*.

(2) In this Act, a reference to the "principal Act" is to be read as a reference to the Act referred to in the title to the Part in which the expression occurs.

Commencement

2. This Act comes into operation as follows:

- (a) section 4 is taken to have come into operation on 25 May 1995; and
- (b) Part 3 is taken to have come into operation on 1 July 1994; and
- (c) the remainder of the Act will come into operation on a day to be fixed by proclamation.

**PART 2
AMENDMENT OF WORKERS REHABILITATION AND COMPENSATION ACT 1986**

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended by striking out from subsection (1) the definition of "unrepresentative disability" and substituting the following definition:

"unrepresentative disability" means a disability arising from an attendance mentioned in section 30(3) or a journey mentioned in section 30(5)(b);.

Amendment of s. 35—Weekly payments

4. Section 35 of the principal Act is amended by striking out subsection (5) and substituting the following subsection:

(5) Weekly payments are not payable in respect of a period of incapacity for work falling after the date on which the worker reaches retirement age.

In this subsection, retirement age means—

- (a) if there is a normal retirement age for workers in employment of the kind from which the worker's disability arose—that age of retirement; or
- (b) the age of 65 years,

whichever is the lesser.

(5A) However, if a worker who is within 6 months of retirement age or above retirement age, becomes incapacitated for work while still in employment, weekly payments are, subject to the following exceptions, payable for a period of incapacity falling within 6 months after the commencement of the incapacity.

Exceptions—

- (a) weekly payments are not payable under this subsection for a period of incapacity falling after the worker reaches 70 years of age;
- (b) weekly payments are not payable under this subsection to—
 - (i) a worker who is, at the commencement of the incapacity, employed by a body corporate of which the worker is a director; or
 - (ii) a worker who is not, at common law, an employee of the employer unless the Crown is the worker's presumptive employer under section 103A.

Amendment of s. 50—Corporation as insurer of last resort

5. Section 50 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) The Corporation may recover -the amount of liabilities undertaken by the Corporation under this section as a debt due to the Corporation from the employer (and, if the employer is being wound up, a claim for the relevant amount may be made in the winding up).

(4) If a claim is made under subsection (3) for an amount representing liabilities that have not fallen due, or have not been ascertained, as at the date of the claim, the liabilities will be estimated and capitalized in accordance with principles stated, or referred to, in the regulations.

Amendment of s. 62—Applications

6. Section 62 of the principal Act is amended by inserting after subsection (1) the following subsection:

(2) An application for registration as an exempt employer or group of exempt employers must be accompanied by a fee fixed in accordance with the regulations.

**Statutes Amendment (Workers Rehabilitation and
Compensation) Act 1995**

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Amendment of s. 68—Special levy for exempt employers

7. Section 68 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) If the Corporation is satisfied that there are good reasons for differentiating between different classes of exempt employers, the percentage on which the levy for exempt employers is based may vary from class to class.

PART 3

AMENDMENT OF WORKCOVER CORPORATION ACT 1994

Amendment of s. 14—Powers

8. Section 14 of the principal Act is amended by striking out subsections (3) and (4) and substituting the following subsections:

(3) The Corporation may only enter into a contract or arrangement—

(a) conferring power on a private sector body—

(i) to manage and determine claims; or

(ii) to provide rehabilitation services; or

(iii) to implement or manage programs to assist or encourage workers who have suffered compensable disabilities to return to work; or

(iv) to collect levies; or

(b) conferring other substantial powers on a private sector body,

if the contract or arrangement is an authorised contract or arrangement.

(4) An authorised contract or arrangement is—

(a) a contract or arrangement with an exempt employer under the *Workers Rehabilitation and Compensation Act 1986*; or

(b) a contract or arrangement with a person who holds an appointment as a rehabilitation provider or rehabilitation adviser under the *Workers Rehabilitation and Compensation Act 1986*; or

(c) a contract or arrangement with an employer registered under the *Workers Rehabilitation and Compensation Act 1986* entered into as part of a pilot scheme (involving a representative sample of not more than 20 registered employers) for allowing employers to manage and determine claims brought by their own workers under that Act; or

(d) a contract or arrangement authorised by regulation.

(4A) An authorisation by regulation under subsection (4)(d)—

(a) cannot take effect until the time for disallowance of the regulation has passed; and

- (b) lapses 3 years after the date on which it took effect or was last renewed unless it is renewed by a fresh regulation made within 6 months before the date on which it is due to lapse.

Amendment of s. 17—Delegations

9. Section 17 of the principal Act is amended by striking out subparagraph (v) of subsection (2)(a) and substituting:

- (v) to a private sector body in connection with a contract or arrangement that is an authorised contract or arrangement under section 14(4); and.

Saving provision

10. This Part is not to affect the decision of the Review Officer in the case of *Warren and Inghams Enterprises Pty Ltd and WorkCover Corporation* (ie Determination No 95-0458) or later decisions in appellate proceedings.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor