



New South Wales

# Workers Compensation Legislation Amendment (Financial Provisions) Bill 2008

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Workplace Injury Management and Workers Compensation Act 1998* (**the 1998 Act**) and the *Workers Compensation Act 1987* (**the 1987 Act**) to provide new funding arrangements for the WorkCover Authority (**WorkCover**) as follows:

- (a) WorkCover's operations will be funded from the Workers Compensation Insurance Fund (the **Insurance Fund**) by payments made from that Fund to the WorkCover Authority Fund with the approval of the Minister,
- (b) existing provisions that enable WorkCover to require a contribution from the premium income of insurers will be retained but limited to contributions from specialised insurers and self-insurers (with the result that WorkCover will no longer be able to levy a contribution on the premium income of the Nominal Insurer),
- (c) WorkCover will be authorised to transfer money or other forms of surplus from the WorkCover Authority Fund to the Insurance Fund.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on 1 July 2008 with the exception of the amendment that allows the transfer of any surplus in the WorkCover Authority Fund to the Insurance Fund (which is to commence on the date of assent).

**Clause 3** is a formal provision that gives effect to the amendments to the *Workplace Injury Management and Workers Compensation Act 1998* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Workers Compensation Act 1987* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

### **Schedule 1      Amendment of Workplace Injury Management and Workers Compensation Act 1998**

**Schedule 1 [1], [2] and [5]** establish the new arrangements for the funding of WorkCover's operations by providing for the payment into the WorkCover Authority Fund of amounts approved by the Minister to be paid into the Fund from the Insurance Fund.

**Schedule 1 [4] and [6]–[12]** limit the existing arrangements for the levying of contributions on insurance premiums to premiums payable to specialised insurers and the deemed premium income of self-insurers, so that contributions will no longer be levied on the premium income of the Nominal Insurer.

**Schedule 1 [3]** authorises WorkCover to transfer any surplus in the WorkCover Authority Fund to the Insurance Fund.

### **Schedule 2      Amendment of Workers Compensation Act 1987**

**Schedule 2 [1]** makes a consequential amendment to the provision that authorises payments from the Insurance Fund to provide for the payments that will be authorised to be made under the proposed new funding arrangements.

**Schedule 2 [2]** enacts a transitional provision that requires the payment from the Insurance Fund into the WorkCover Authority Fund of contributions on outstanding premium debts due to the Nominal Insurer. The provision is consequential on the

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termination of existing arrangements for levying contributions on the premium income of the Nominal Insurer and provides for the levying of a contribution on premiums that are due and unpaid when the existing arrangements end.

**Schedule 2 [3]** enacts a savings and transitional regulation-making power.





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New South Wales

# Workers Compensation Legislation Amendment (Financial Provisions) Bill 2008

No. , 2008

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## A Bill for

An Act to amend the *Workplace Injury Management and Workers Compensation Act 1998* and the *Workers Compensation Act 1987* to make further provision for the funding of the WorkCover Authority.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Workers Compensation Legislation Amendment (Financial Provisions) Act 2008</i> .	3 4
<b>2 Commencement</b>	5
(1) This Act commences, or is taken to have commenced, on 1 July 2008, except as provided by subsection (2).	6 7
(2) Schedule 1 [3] commences on the date of assent to this Act.	8
<b>3 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86</b>	9 10
The <i>Workplace Injury Management and Workers Compensation Act 1998</i> is amended as set out in Schedule 1.	11 12
<b>4 Amendment of Workers Compensation Act 1987 No 70</b>	13
The <i>Workers Compensation Act 1987</i> is amended as set out in Schedule 2.	14 15
<b>5 Repeal of Act</b>	16
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	17 18
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	19 20

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<b>Schedule 1</b>	<b>Amendment of Workplace Injury Management and Workers Compensation Act 1998</b>	1
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		3
	(Section 3)	4
<b>[1] Section 35 Payments into and from Fund</b>		5
Insert after section 35 (1) (a):		6
(a1) money approved by the Minister to be paid into the Fund from the Insurance Fund under subsection (1A),		7
		8
<b>[2] Section 35 (1A)</b>		9
Insert after section 35 (1):		10
(1A) The Minister may approve the payment into the Fund of amounts from the Insurance Fund having regard to the estimates, provisions and determinations made by the Authority under section 38 and any need for additional funding to provide for the proper exercise of the Authority's functions.		11
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<b>[3] Section 35 (4)</b>		16
Insert after section 35 (3):		17
(4) The Authority may pay from the Fund into the Insurance Fund any amount by which the Authority determines the Fund to be in surplus from time to time. Any such surplus may be paid to the Insurance Fund by transfer of any investment held by the Fund (as an alternative to the payment of money).		18
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<b>[4] Section 38 Assessment by Authority of amount to be contributed to Fund</b>		23
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Omit "from insurers" from section 38 (c).		25
Insert instead "from specialised insurers".		26
<b>[5] Section 38 (c1)</b>		27
Insert after section 38 (c):		28
(c1) to make an estimate of the amount required to be contributed to the Fund from the Insurance Fund during that financial year, and		29
		30
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Schedule 1      Amendment of Workplace Injury Management and Workers Compensation  
Act 1998

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<b>[6] Section 38 (d)</b>	1
Omit the paragraph. Insert instead:	2
(d) to determine the total amount to be contributed to the Fund	3
in respect of that financial year by specialised insurers,	4
self-insurers and Comcare employers under this Division	5
after having regard to:	6
(i) the amounts standing to the credit of the Fund at the	7
beginning of the year, including any amounts set	8
aside in earlier years as provisions to meet	9
expenditure in later years, and	10
(ii) the amounts estimated under paragraph (c) to be	11
received into the Fund during the year, and	12
(iii) the amounts to be contributed to the Fund from the	13
Insurance Fund during the year, and	14
<b>[7] Section 38 (e)</b>	15
Omit “by insurers”. Insert instead “by specialised insurers”.	16
<b>[8] Section 39 Contributions to Fund by specialised insurers and</b>	17
<b>self-insurers</b>	18
Omit “Each insurer” from section 39 (1).	19
Insert instead “Each specialised insurer”.	20
<b>[9] Section 39 (2), (5), (7) and (9)</b>	21
Omit “an insurer” wherever occurring.	22
Insert instead “a specialised insurer”.	23
<b>[10] Section 39 (2), (5) and (7)</b>	24
Omit “the insurer” wherever occurring.	25
Insert instead “the specialised insurer”.	26
<b>[11] Section 39 (4)</b>	27
Omit “by insurers” and “all insurers”.	28
Insert instead “by specialised insurers” and “all specialised insurers”	29
respectively.	30
<b>[12] Section 39 (6B)</b>	31
Omit “by insurers”. Insert instead “by specialised insurers”.	32

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<b>Schedule 2</b>	<b>Amendment of Workers Compensation Act 1987</b>	1
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	(Section 4)	3
<b>[1]</b>	<b>Section 154E Assets of Insurance Fund</b>	4
	Omit section 154E (2) (h). Insert instead:	5
	(h) the payment by the Nominal Insurer of contributions under this Act to the Guarantee Fund or the Terrorism Re-insurance Fund as referred to in section 239AE,	6
		7
		8
	(h1) the payment to the WorkCover Authority Fund of amounts approved by the Minister under section 35 of the 1998 Act,	9
		10
<b>[2]</b>	<b>Schedule 6 Savings, transitional and other provisions</b>	11
	Insert as Part 19E:	12
	<b>Part 19E Provisions consequent on enactment of Workers Compensation Legislation Amendment (Financial Provisions) Act 2008</b>	13
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<b>1</b>	<b>Payment of contribution on premium income of Nominal Insurer</b>	17
(1)	There is payable from the Insurance Fund to the WorkCover Authority Fund an amount equal to the relevant percentage of premium income of the Nominal Insurer that is due but unpaid at the end of June 2008 less a provision for any premiums that the Nominal Insurer determines are unlikely to be paid. The <i>relevant percentage</i> is the percentage rate of contribution payable under section 39 (2) of the 1998 Act.	18
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(2)	Any liability of the Nominal Insurer to pay a contribution under section 39 of the 1998 Act in respect of premium income of the Nominal Insurer received before 1 July 2008 continues despite the amendment of that section by the <i>Workers Compensation Legislation Amendment (Financial Provisions) Act 2008</i> .	25
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(3)	A payment required by this clause is to be made as soon as practicable after 30 June 2008.	30
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Schedule 2      Amendment of Workers Compensation Act 1987

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**[3]    Schedule 6, Part 20**

Insert at the end of clause 1 (1):

*Workers Compensation Legislation Amendment (Financial  
Provisions) Act 2008*

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