

## COMPENSATION COURT BILL, 1982

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### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The following Bills are cognate with this Bill:—

- Workers' Compensation (Amendment) Bill, 1982;
- Workers' Compensation (Brucellosis) Amendment Bill, 1982;
- Sporting Injuries Insurance (Workers' Compensation) Amendment Bill, 1982;
- Miscellaneous Acts (Workers' Compensation) Amendment Bill, 1982.

The object of this Bill is to create a Court in which shall be vested the judicial functions of the Workers' Compensation Commission of New South Wales. It is proposed, by the proposed Workers' Compensation (Amendment) Act, 1982, to abolish the Workers' Compensation Commission of New South Wales. By the same Act, it is proposed to constitute a State Compensation Board in which shall be vested the administrative functions of the Workers' Compensation Commission of New South Wales.

The Bill contains the following provisions:—

#### PART I.—PRELIMINARY.

- Clause 1. Short title.
- Clause 2. Commencement.
- Clause 3. Arrangement of the proposed Act.
- Clause 4. Interpretation.

#### PART II.—CONSTITUTION.

Clause 5 creates the Compensation Court of New South Wales ("the Court").

Clause 6 provides that the functions of the Court shall be exercised by a single Judge of the Court.

Clauses 7–11 provide for the appointment of the Chief Judge and Judges of the Court. Generally, a District Court Judge, a barrister of 5 years' standing or a solicitor of 7 years' standing is qualified for appointment as a Judge of the Court.

The Judges of the Court are to have the same rank, status and precedence and the same remuneration and other rights as a District Court Judge and may only be removed from office in the same manner as a District Court Judge may be removed.

Clauses 12 and 13 provide for the appointment of commissioners of the Court. Commissioners may be legally qualified or have other qualifications relevant to their functions.

Clause 14 provides for the appointment of a registrar, assistant registrars and other officers of the Court and for the employment of casual employees.

### PART III.—JURISDICTION OF THE COURT.

Clause 15 confers on the Court its jurisdiction and gives the Court powers ancillary to its jurisdiction. The Court's principal jurisdiction arises under the Workers' Compensation Act, 1926, wherein it is proposed (by the proposed Workers' Compensation (Amendment) Act, 1982) to provide that the Court will have exclusive jurisdiction to examine into, hear and determine all matters and questions arising under that Act.

Clause 16 enables the Court to refer matters to a commissioner or a registrar.

Clauses 17 and 18 make provisions in relation to decisions of the Court and the ordering of payment of fees or costs.

Clauses 19–24 relate to the procedure of the Court.

Clauses 25–28 contain provisions relating to the jurisdiction of, and procedure before, commissioners of the Court.

Clauses 29 and 30 relate to the jurisdiction of a registrar of the Court.

Clause 31 enables the holding of pre-hearing conferences and the referring of matters for arbitration.

### PART IV.—APPEALS, ETC.

Clauses 32–35 provide for appeals, and the stating of cases, to the Supreme Court on a question of law, or of the admission or rejection of evidence, arising in proceedings before the Compensation Court.

Clauses 36–38 provide for—

- (a) appeals to the Compensation Court against an award of a commissioner or registrar; and
- (b) references to the Compensation Court of matters or questions arising in proceedings before a commissioner or registrar.

Clause 39 allows the Court to order a stay of proceedings in respect of an award the subject of an appeal or stated case. Where an appeal is made against an award of a commissioner, any stay of proceedings ordered will not affect any liability to make weekly payments of compensation under the award appealed against. If the effect of the

decision in respect of the appeal is to terminate the liability to make weekly payments, the Uninsured Liability and Indemnity Scheme established under the Workers' Compensation Act, 1926, will bear such part of the liability as the Court orders.

#### PART V.—MISCELLANEOUS PROVISIONS.

Clause 40 provides for the establishment of a Compensation Court Account, administered by the Minister, from which the costs of operating the Court will be paid. The funding of the account will be from the fund established under section 41 of the Workers' Compensation Act, 1926, which comprises contributions paid in by insurers under that Act.

Clause 41 allows the delegation of functions.

Clause 42 establishes a Rule Committee of the Court.

Clause 43 makes provision for liaison between the Court and the State Compensation Board, which is to be established by the proposed Workers' Compensation (Amendment) Act, 1982.

Clauses 44–48 provide for the making of rules by the Court and the making of regulations by the Governor for the purposes of the proposed Act.

#### SCHEDULES.

Schedule 1 contains provisions relating to the preservation of rights of Judges of the Court if previously public servants.

Schedule 2 contains provisions relating to the office of commissioner of the Court and the rights of commissioners.

Schedules 3 and 4 set out the functions of the Court which may be exercised by a commissioner and registrar respectively.

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