

South Australia



**WORKERS REHABILITATION AND COMPENSATION (SGIC)
AMENDMENT ACT 1996**

No. 2 of 1996

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ELIZABETHAE II REGINAE

A.D. 1996

No. 2 of 1996

An Act to amend the Workers Rehabilitation and Compensation Act 1986.

[Assented to 7 March 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Workers Rehabilitation and Compensation (SGIC) Amendment Act 1996*.

(2) The *Workers Rehabilitation and Compensation Act 1986* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Substitution of clause 5 of Schedule 1

3. Clause 5 of Schedule 1 to the principal Act is repealed and the following clauses are substituted:

Statutory reserve fund

5. (1) The Statutory Reserve Fund (referred to in section 118c of the repealed Act) must be re-established by separating out the part of the Compensation Fund that represents the former Statutory Reserve Fund.

(2) Division 4 of Part 10A (*ie* sections 118d to 118e) of the repealed Act, and related interpretative provisions, continue in force subject to the following modifications—

- (a) references to the Commission are to be read as references to the Corporation; and
- (b) references to the fund are to be read as references to the Statutory Reserve Fund re-established under subclause (1); and
- (c) references to the Treasurer are to be read as references to the Corporation; and

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(d) references to the Court are to be read as references to the Tribunal; and

(e) section 118d(10) is modified to read as follows:

(10) On an appeal under this section, the Tribunal has power to review all aspects of the Corporation's determination.; and

(f) after section 118d(12) subsections are inserted in the following terms:

(13) Any amounts recovered by the Corporation in the exercise of rights to which it is subrogated under subsection (12) must be paid into the fund.

(14) A claim made under this section before the date of transition that had not been disposed of at the date of transition (a "**pre-transition claim**"), is taken to have been made against the Corporation as if this section had been in force in its modified form when the claim was made and it was then made against the Corporation.

(15) It follows that the Corporation assumes responsibility for administering pre-transition claims and is substituted for the Commission or the Treasurer (as the case requires) in any legal proceedings relating to such claims.

(16) Any rights of subrogation that existed in favour of the Treasurer immediately before the date of transition are transferred to the Corporation.

(17) The Corporation may recoup administrative expenses and legal costs related to claims under this section from the fund.

(18) The Corporation may intervene and be heard in proceedings before a court if there is a prospect that a claim before the court, or a judgment of the court, may lead to a claim under this section.

(19) In this section—

"date of transition" means the date on which the *Workers Rehabilitation and Compensation (SGIC) Amendment Act 1996* comes into operation.

Insurance Assistance Fund

5A. (1) The Insurance Assistance Fund must be established by separating out the part of the Compensation Fund identified in the accounts of the Corporation as the Insurance Assistance Fund immediately before the commencement of this clause.

(2) The Governor may, by proclamation, transfer rights and liabilities of the insurer under a section 118g policy from the Motor Accident Commission to the Corporation.

(3) The Motor Accident Commission may delegate to the Corporation its responsibility for administering claims under section 118g policies.

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(4) The Corporation may, by an authorised contract or arrangement—

- (a) delegate its responsibility for administering claims under section 118g policies in relation to which the rights and liabilities of the insurer have been transferred to the Corporation under subclause (2); or
- (b) subdelegate a responsibility for administering claims under section 118g policies delegated to it under subclause (3).

(5) The Motor Accident Commission or the Corporation (as the case requires) may recoup expenditure covering liabilities under section 118g policies and associated administrative and legal costs (other than expenditure and costs covered by a contract of reinsurance) from the Insurance Assistance Fund and, if that proves insufficient, from the Statutory Reserve Fund.

(6) In this clause—

"authorised contract or arrangement" means a contract or arrangement authorised by regulation under section 14 of the *WorkCover Corporation Act 1994*;

"section 118g policy" means a policy of insurance issued under section 118g(3) of the repealed Act.

Investment of, and dealings with, the Funds

5B. (1) The Statutory Reserve Fund and the Insurance Assistance Fund may be invested in common with the Compensation Fund as if they formed part of the Compensation Fund.

(2) If the Corporation is of the opinion that the balance of the Statutory Reserve Fund or the Insurance Assistance Fund exceeds the amount reasonably required for the purposes for which the relevant fund exists, the Corporation may, with the Minister's consent, transfer the surplus to the Compensation Fund.

Entitlement to documents

5C. The Corporation is entitled to possession of all documents and other materials in the possession or power of the Motor Accident Commission relevant to claims against the Statutory Reserve Fund or to liabilities under policies of insurance transferred to the Corporation under this Schedule.

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

ROMA MITCHELL Governor