



**WORKERS REHABILITATION AND COMPENSATION (SELF
MANAGED EMPLOYER SCHEME) AMENDMENT ACT 1998**

No. 30 of 1998

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A.D. 1998

No. 30 of 1998

An Act to amend the Workers Rehabilitation and Compensation Act 1986; and to make a consequential amendment to the WorkCover Corporation Act 1994.

[Assented to 16 April 1998]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Workers Rehabilitation and Compensation (Self Managed Employer Scheme) Amendment Act 1998*.

(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.

Insertion of s. 59A

3. The following section is inserted after section 59 of the principal Act:

Self managed employers

59A. (1) An employer or group of employers may apply to the Corporation for registration as a self managed employer or a group of self managed employers.

(2) If the Corporation is satisfied on an application under this section that—

(a) the employer or the group has adequate resources to manage claims made by the employer's workers or the workers of employers in the group (as the case requires); and

(b) it is otherwise appropriate to register the employer or the group under this section,

the Corporation may register the employer as a self managed employer or the group as a group of self managed employers (as the case requires).

(3) The Corporation may revoke a registration under this section if an employer covered by the registration breaches or fails to comply with this Act or a term of a contract or arrangement with the Corporation under the *WorkCover Corporation Act 1994*.

(4) In deciding whether to grant or revoke registration under this section, the Corporation may have regard to matters it considers relevant and must have regard to the following:

- (a) the resources that the employer or group has for administering claims for compensation;
- (b) the incidence and severity of compensable disabilities arising from employment by the employer or employers;
- (c) the effect, or likely effect, of the working conditions under which workers are employed by the employer or employers on the health and safety of those workers;
- (d) the record of the employer or employers in relation to the rehabilitation of disabled workers;
- (e) the record of the employer or employers in providing suitable employment to workers who suffer compensable disabilities;
- (f) the views of any industrial association that has, in the Corporation's opinion, a proper interest in the matter.

(5) Where employers are registered as a group of self managed employers, one of those employers (the **claims manager**) nominated in the application for registration will, for the purposes of this Act, be treated as the employer of all workers employed by the various members of the group.

Substitution of s. 62

4. Section 62 of the principal Act is repealed and the following section is substituted:

Applications

62. (1) An application for registration under this Part—

- (a) must be made in the manner and form required under the regulations; and
- (b) must be accompanied by the information required under the regulations; and
- (c) in the case of an application for registration of a group of exempt employers or a group of self managed employers—must nominate a member of the group as the employer who is, for the purposes of this Act, to be treated as the employer of all workers employed by the members of the group.

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

Amendment of s. 67—Adjustment of levy in relation to individual employers

5. Section 67 of the principal Act is amended by inserting after paragraph (d) of subsection (1) the following paragraph:

- (da) the registration of the employer under this Act as a self-managed employer;.

Insertion of s. 107B

6. The following section is inserted in the principal Act after section 107A:

Worker's right of access to claims file

107B. (1) The Corporation or a delegate of the Corporation must, at the request of a worker—

- (a) provide the worker, within 45 days after the date of the request, with copies of all documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker; and
- (b) make available for inspection by the worker (or a representative of the worker) all non-documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker.

Maximum penalty: \$2 000

(2) Non-documentary material is to be made available for inspection—

- (a) at a reasonable time and place agreed between the Corporation or delegate and the worker; or
- (b) in the absence of agreement—at a public office of the Corporation or delegate nominated by the worker at a time (which must be at least 45 days, but not more than 60 days, after the request is made and during ordinary business hours) nominated by the worker.

(3) However, the Corporation or delegate is not obliged to provide copies of material, or to make material available for inspection by the worker if—

- (a) the material is relevant to the investigation of suspected dishonesty in relation to the claim; or
- (b) the material is protected by legal professional privilege.

(4) In this section, a **delegate** of the Corporation includes an exempt employer, a self managed employer or the claims manager for a group of self managed employers.

Amendment of WorkCover Corporation Act 1994

7. Section 14 of the *WorkCover Corporation Act 1994* is amended—

- (a) by striking out subsection (4) and substituting the following subsection:

(4) An authorised contract or arrangement is—

- (a) a contract or arrangement with an exempt employer or a self managed 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 authorised by regulation.;

(b) by striking out from subsection (4a) "subsection (4)(d)" and substituting "subsection (4)(c)".

Sunset provision

8. On the expiration of 4 years from the commencement of this Act—

- (a) the amendments made by this Act (other than by section 6) are cancelled and the text of the Acts amended by this Act is restored to the form in which that statutory text would have existed if this Act had not been passed; and
- (b) section 107B of the *Workers Rehabilitation and Compensation Act 1986* (as inserted by section 6 of this Act) is amended by striking out from subsection (4) ", a self-managed employer or the claims manager for a group of self-managed employers".

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

E. J. NEAL Governor