

Version No. 059
**Accident Compensation (WorkCover
Insurance) Act 1993**

Act No. 50/1993

Version incorporating amendments as at 22 June 2005

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1. Purpose	1
2. Commencement	1
3. Definitions	2
4. Application of Act	4
5. Construction of Act	4
6. Act to bind Crown	4
PART 2—WORKCOVER INSURANCE AND PREMIUMS	5
7. Compulsory WorkCover insurance	5
8. Rateable remuneration	10
9. WorkCover insurance policy	12
10. Issue and renewal of WorkCover insurance policies	13
11. <i>Repealed</i>	13
12. Inspection of policies	13
13. Evidence that employer has WorkCover insurance policy	14
14. Employer ceasing to exist	15
15. Premiums order	16
16. Premiums order—general provisions	17
17. Premiums to be calculated in accordance with premiums order	18
18. Estimate of rateable remuneration	18
19. Rateable remuneration—transitional	19
20. Revised estimates of rateable remuneration	20
21. Adjustment of premium	21
22. Application by employer to review premium	21
22A. Application for refund of premium	22
22B. What happens if Authority refuses or fails to determine an application for a refund or fails to make a refund?	23
23. Certificate of rateable remuneration	24
24. Assessment by Authority	25

<i>Section</i>	<i>Page</i>
25. Default penalty	26
26. Payment of premiums	27
27. Review of premium	27
28. Adjustment of premium after review	28
28A. Review of premium in certain circumstances	29
28B. Adjustment of premium after section 28A review	30
29. Notice of adjustment	31
30. Exercise of review and adjustment powers	32
31. Application of review and adjustment powers	32
31A. Refunds	33
PART 3—LICENSING OF WORKCOVER INSURERS	34
32–36. <i>Repealed</i>	34
37. Records and evidence relating to licences	35
38. <i>Repealed</i>	35
39. Information and records to be supplied by insurers	35
40, 41. <i>Repealed</i>	36
42. Payment of premiums	37
PART 4—<i>Repealed</i>	37
43–54. <i>Repealed</i>	37
PART 5—UNINSURED EMPLOYERS AND INDEMNITY SCHEME	38
55. Uninsured Employers and Indemnity Scheme	38
56. <i>Repealed</i>	38
57. Claims against section 55(2)(a) or 55(2)(d) employers	38
58. Registration of section 55(2)(a) employer	39
59. Claims against section 55(2)(b) or 55(2)(c) employers	39
59A. Common law claim	40
59B. Deemed contract of insurance	41
60. Authority may require employer to provide information	42
61. Authority may recover amount in relation to claim	42
62. General power of Authority in relation to proceedings	44
PART 6—GENERAL PROVISIONS	45
63. Transfer of Authority's liability	45
64. Transfer of rights, obligations and liabilities	45
65. Reciprocal agreements	46
66. Groups	46
66A. Joint and several liability of group members	53
67. <i>Repealed</i>	53
68. Recovery of premium or penalty	53
69. Books and accounts to be preserved	55

<i>Section</i>	<i>Page</i>
70. Warrants to enter and search	55
71. Evidence	58
72. Regulations	59
PART 7—SAVING AND TRANSITIONAL	61
73. Authority is successor in law	61
74. Transitional provisions	61
75. Cancellation of licences	62
76. Re-insurance arrangements	63
77. Supreme Court—limitation of jurisdiction	64
78. <i>Repealed</i>	61
PARTS 8, 9—<i>Repealed</i>	64
79–113. <i>Repealed</i>	64
<hr style="border-top: 3px double #000;"/>	
ENDNOTES	65
1. General Information	65
2. Table of Amendments	66
3. Explanatory Details	69

Version No. 059
**Accident Compensation (WorkCover
Insurance) Act 1993**
Act No. 50/1993

Version incorporating amendments as at 22 June 2005

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purpose

The purpose of this Act is to provide for compulsory WorkCover insurance for employers under WorkCover insurance policies and the payment of premiums for WorkCover insurance policies.

**S. 1
amended by
No. 50/1994
s. 89(1)(2),
substituted by
No. 81/1998
s. 3.**

2. Commencement

- (1) Part 1 and sections 19, 94(1), 102, 110(1) and 111(1) come into operation on the day this Act receives the Royal Assent.
- (2) The following sections are deemed to have come into operation as follows—
 - (a) sections 111(2) and 112(1) on 19 November 1992;
 - (b) sections 84(1), 92, 94(2), 95, 100 and 110(2) on 1 December 1992;
 - (c) section 93 on 1 April 1993;
 - (d) sections 87 and 88 on 29 April 1993.
- (3) The remaining provisions of this Act come into operation on a day or days to be proclaimed.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 1—Preliminary

s. 3

3. Definitions

(1) In this Act—

S. 3(1) def. of
"authorised
insurer"
substituted by
No. 81/1998
s. 4(a).

"authorised insurer" means an insurer who was the holder of a licence under Part 3 as in force immediately before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998**;

S. 3(1) def. of
"authorised
agent"
inserted by
No. 81/1998
s. 4(a).

"authorised agent" has the same meaning as it has in section 5(1) of the **Accident Compensation Act 1985**;

"Authority" means the Victorian WorkCover Authority established under the **Accident Compensation Act 1985**;

"employer" has the same meaning as it has in section 5 of the **Accident Compensation Act 1985**;

"exemption limit" means—

- (a) in relation to the financial year ending 30 June 1994—\$7500; and
- (b) in relation to each subsequent financial year—the amount prescribed in the premiums order in respect of that financial year;

S. 3(1) def of
"former
authorised
insurer"
amended by
No. 81/1998
s. 4(b).

"former authorised insurer" means an authorised insurer whose licence has ceased to be in force whether by expiry, cancellation, suspension or operation of law;

S. 3(1) def. of
"policy
period"
amended by
No. 81/1998
s. 4(c).

"policy period" means the period of 12 months or such lesser period as may be fixed by the Authority ending at 4 p.m. on 30 June in any year;

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 1—Preliminary

s. 3

"premiums order" means a premiums order made under section 15;

"rateable remuneration" means remuneration that is subject to a premium within the meaning of section 8;

"remuneration" has the same meaning as it has in section 5 of the **Accident Compensation Act 1985**;

* * * * *

S. 3(1) def. of "statutory fund" repealed by No. 81/1998 s. 4(d).

"WorkCover Authority Fund" means the Fund established under section 32 of the **Accident Compensation Act 1985**;

"WorkCover insurance policy" means an insurance policy issued in accordance with this Act;

S. 3(1) def. of "WorkCover insurance policy" amended by No. 81/1998 s. 4(e).

"worker" has the same meaning as it has under the **Accident Compensation Act 1985** and includes in the event of the worker's death, the worker's dependants.

- (2) Unless inconsistent with the context or subject-matter, words and expressions defined in the **Accident Compensation Act 1985** have the same meaning in this Act.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 1—Preliminary

s. 4

S. 4
amended by
Nos 47/1996
s. 24, 80/1997
s. 51.

4. Application of Act

This Act does not apply to a self-insurer under Part V of the **Accident Compensation Act 1985** except in relation to the employment of a worker within the meaning of paragraph (d) or (e) of the definition of "worker" in section 5(1) of the **Accident Compensation Act 1985**.

5. Construction of Act

This Act must be read and construed as one with the **Accident Compensation Act 1985**.

6. Act to bind Crown

This Act binds the Crown, not only in right of the State of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 7

PART 2—WORKCOVER INSURANCE AND PREMIUMS

7. Compulsory WorkCover insurance

(1) An employer who in any financial year employs a worker within the meaning of section 5(1) of the **Accident Compensation Act 1985**¹—

S. 7(1)
amended by
No. 7/1996
s. 51(1).

(a) must obtain and keep in force a WorkCover insurance policy with the Authority in respect of all of the employer's liability under the **Accident Compensation Act 1985** and at common law or otherwise in respect of all injuries arising out of or in the course of or due to the nature of all employment with that employer on or after 4 p.m. on 30 June 1993²; and

S. 7(1)(a)
amended by
Nos 50/1994
s. 90(1)(2),
81/1998
s. 5(1).

(b) must not at any one time keep in force more than one such policy.

Penalty: 100 penalty units.

(1AA) It is a defence to a prosecution for an offence against sub-section (1) concerning an employer's liability in respect of injuries to a worker if the court is satisfied that at the time of the alleged offence—

S. 7(1AA)
inserted by
No. 95/2003
s. 24(1).

(a) the employer believed on reasonable grounds that the employer could not be liable under the **Accident Compensation Act 1985** or at common law or otherwise in respect of injuries to the worker because under section 80 of that Act the worker's employment was not connected with this State; and

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 7

(b) the employer had workers compensation cover in respect of the worker's employment under the law of the State or Territory with which the employer believed on reasonable grounds the worker's employment was connected under section 80 of that Act.

S. 7(1AB)
inserted by
No. 95/2003
s. 24(1).

(1AB) In sub-section (1AA), "**workers compensation cover**" means insurance or registration required under the law of a State or Territory in respect of liability for statutory workers compensation under that law.

S. 7(1A)
inserted by
No. 50/1994
s. 91,
substituted by
No. 7/1996
s. 51(2).

(1A) Subject to sub-section (1B), sub-section (1) does not apply in respect of a financial year or part of a financial year during which the employer has reasonable grounds for believing that the total rateable remuneration that the employer is or will be liable to pay during that financial year does not exceed the exemption limit³.

S. 7(1B)
inserted by
No. 7/1996
s. 51(2).

(1B) Sub-section (1A) does not operate to exclude the application of sub-section (1) to an employer who employs an apprentice within the meaning of section 5(1) of the **Accident Compensation Act 1985**⁴.

(2) An employer is liable for an excess on each claim under a policy under sub-section (1) as specified in section 125A(3) of the **Accident Compensation Act 1985**.

(3) The excess may be increased, reduced or eliminated in accordance with sections 125A(6) and 125A(7) of the **Accident Compensation Act 1985**.

S. 7(4)
substituted by
No. 7/1996
s. 51(3).

(4) An employer in respect of which sub-section (1A) applies is deemed to have in force a policy of insurance under sub-section (1) with the Authority for the purposes of this Act during the period in respect of which sub-section (1A) applies⁵.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 7

-
- | | |
|---|---|
| <p>(4A) The employer of a worker within the meaning of paragraph (d) or (e) of the definition of "worker" in section 5(1) of the Accident Compensation Act 1985 is deemed to have a WorkCover insurance policy in respect of those workers only and sub-section (1)(b) does not apply in respect of such policy⁶.</p> | <p>S. 7(4A)
inserted by
No. 50/1994
s. 92(1),
amended by
Nos 80/1997
s. 51, 107/1997
s. 64(1),
81/1998
s. 5(2).</p> |
| <p>(4B) Despite sub-section (4A), the premium payable in respect of a deemed WorkCover insurance policy under sub-section (4A) is to be calculated in accordance with the premiums order and is payable as part of the premium payable for the WorkCover insurance policy held by the Department of Education as if⁷—</p> <p style="margin-left: 40px;">(a) the workers were employed by the Department of Education; and</p> <p style="margin-left: 40px;">(b) the remuneration paid to the workers had been paid by the Department of Education.</p> | <p>S. 7(4B)
inserted by
No. 50/1994
s. 92(1),
amended by
No. 107/1997
s. 64(2).</p> <p>S. 7(4B)(a)
amended by
No. 107/1997
s. 64(1).</p> <p>S. 7(4B)(b)
amended by
No. 107/1997
s. 64(1).</p> |
| <p>(4C) The employer of a worker employed under a program designed under section 12(3) of the Transport Accident Act 1986 is deemed to have a WorkCover insurance policy in respect of the worker only and sub-section (1)(b) does not apply in respect of such policy.</p> | <p>S. 7(4C)
inserted by
No. 84/1994
s. 64,
amended by
No. 81/1998
s. 5(3).</p> |
| <p>(4D) Despite sub-section (4C), the premium payable in respect of a deemed WorkCover insurance policy under sub-section (4C) is to be calculated in accordance with the premiums order and is payable as part of the premium payable for the WorkCover insurance policy held by the Transport Accident Commission as if—</p> | <p>S. 7(4D)
inserted by
No. 84/1994
s. 64,
amended by
No. 107/1997
s. 64(3).</p> |

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 7

- (a) the worker was employed by the Transport Accident Commission; and
 - (b) the remuneration paid to the worker had been paid by the Transport Accident Commission.
- (5) If an employer registered under section 197 of the **Accident Compensation Act 1985** is required to obtain and keep in force a WorkCover insurance policy and has not on or before 4 June 1993 advised the Authority of the authorised insurer with which the employer is to obtain a WorkCover insurance policy, the employer is deemed for the first policy period after 4 p.m. on 30 June 1993 to have a WorkCover insurance policy with an authorised insurer specified by the Authority.
- (6) If an employer fails to obtain or keep in force a policy of insurance as required in accordance with sub-section (1) in respect of any period, the Authority may recover from the employer in a court of competent jurisdiction as a debt due to the Authority a penalty of up to twice the amount of the premium that would have been payable for the issue of a policy of insurance to the employer in respect of that period.
- (7) The Authority may recover any such penalty from an employer whether or not the employer has been proceeded against or been convicted for an offence against sub-section (1) in respect of the employer's failure to obtain or keep in force the policy of insurance.
- (7A) Despite any other provision of this section, if the Authority is satisfied that—
- (a) the reason for the employer not obtaining or keeping in force a policy of insurance as required in accordance with sub-section (1) in respect of injuries to a worker in a period

S. 7(6)
amended by
No. 82/2001
s. 26(a).

S. 7(7A)
inserted by
No. 95/2003
s. 24(2).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 7

is that the employer believed on reasonable grounds that the employer could not be liable under the **Accident Compensation Act 1985** or at common law or otherwise in respect of injuries to the worker because under section 80 of that Act the worker's employment was not connected with this State; and

- (b) the employer had workers compensation cover in respect of the worker's employment under the law of the State or Territory with which the employer believed on reasonable grounds the worker's employment was connected under section 80 of that Act—

the employer is not liable to pay a penalty under sub-section (6) in respect of that liability.

- (7B) In sub-section (7A), "**workers compensation cover**" has the same meaning as in sub-section (1AB).
- (8) A WorkCover insurance policy issued or deemed to have been issued before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** is deemed to have been issued under this Act as amended by Part 2 of the **Accident Compensation (Amendment) Act 1998**.
- (9) A WorkCover insurance policy issued or deemed to have been issued under this Act does not indemnify an employer in respect of any liability of the employer to pay compensation for a matter for which compensation is awarded under Subdivision (1) of Division 2 of Part 4 of the **Sentencing Act 1991**.

S. 7(7B)
inserted by
No. 95/2003
s. 24(2).

S. 7(8)
inserted by
No. 81/1998
s. 5(4).

S. 7(9)
inserted by
No. 26/2000
s. 27(1),
amended by
No. 54/2000
s. 25(5).

8. Rateable remuneration

- (1) The remuneration subject to a premium under this Act is remuneration that is paid or payable by an employer on or after 1 July 1993 (whether in respect of services performed or rendered before, during or after that day) and—
- (a) is remuneration that is paid or payable in Victoria (not being remuneration so paid or payable in respect of services performed or rendered wholly outside Victoria);
 - (b) is remuneration that is paid or payable elsewhere than in Victoria in respect of services performed or rendered wholly in Victoria; or
 - (c) is remuneration that is paid or payable elsewhere than in Victoria in respect of services performed or rendered mainly in Victoria—

except remuneration that is paid on or after 1 July 1993 but was payable before 1 July 1993.

- (2) For the purposes of sub-section (1)(a), remuneration that is payable to a person by the employer, but has not been paid (not being remuneration that, under the terms of employment, is payable in Victoria) shall be deemed—
- (a) where the remuneration is payable in respect of services performed or rendered wholly in Victoria—to be remuneration payable to that person in Victoria; and
 - (b) where that remuneration is not payable in respect of services performed or rendered wholly in Victoria and where the remuneration last paid or payable to that person by that employer was included or is required to be included in a return under this
-

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 8

Act—to be remuneration payable to that person in Victoria.

- (2A) For the purposes of this section, where remuneration includes a fringe benefit within the meaning of section 5(1) of the **Accident Compensation Act 1985**, that part of the fringe benefit which is to be included in rateable remuneration for a financial year is to be the fringe benefit calculated for the period 1 April to 31 March ending in that financial year. **S. 8(2A) inserted by No. 50/1994 s. 93.**
- (2B) Remuneration that is superannuation benefits that are not paid in respect of services performed or rendered by a worker in a particular month is rateable remuneration under this Act as if it were paid or payable in respect of services performed or rendered during the month in which it is paid or became payable. **S. 8(2B) inserted by No. 107/1997 s. 65.**
- (2C) Nothing in sub-section (2B) applies to render remuneration that is superannuation benefits paid or payable in respect of services performed or rendered in respect of services performed or rendered by a worker before 1 January 1998 to be rateable remuneration. **S. 8(2C) inserted by No. 107/1997 s. 65.**
- (3) For the purposes of this section, where a cheque, bill of exchange, promissory note, money order or postal order issued by a post office or any other instrument is sent or given or an amount is transferred by an employer to a person or the agent of a person at a place in Australia in payment of remuneration, that remuneration shall be deemed to have been paid at that place and to have been paid when the instrument was so sent or given or the amount was so transferred. **S. 8(3) amended by No. 102/2004 s. 42(a)(b).**

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 9

9. WorkCover insurance policy

(1) A WorkCover insurance policy must only contain such provisions as are prescribed by this Act and any other provisions that are approved by the Authority.

S. 9(2)
amended by
No. 81/1998
s. 6(a).

(2) A WorkCover insurance policy must provide that—

S. 9(2)(a)
amended by
No. 81/1998
s. 6(b).

(a) the Authority as well as the employer is directly liable to any worker or other person insured under the policy and, in the event of the worker's death, to the dependants or other persons to pay the compensation under the **Accident Compensation Act 1985** and at common law or otherwise for which the employer is liable; and

S. 9(2)(b)
amended by
No. 81/1998
s. 6(b).

(b) the Authority is bound by and subject to any judgment, order, decision, award or determination given or made against the employer of any such worker in respect of the injury or death for which the compensation or amount is payable.

S. 9(3)
amended by
No. 81/1998
s. 6(c).

(3) A liability under a WorkCover insurance policy of the Authority to a worker or other person under a provision inserted in the policy under sub-section (2) is enforceable as if the worker or other person were a party to the policy.

S. 9(4)(5)
repealed by
No. 81/1998
s. 6(d).

* * * * *

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 10

10. Issue and renewal of WorkCover insurance policies

- (1) A person, other than the Authority, must not issue or renew a WorkCover insurance policy or a purported WorkCover insurance policy.

Penalty: 100 penalty units.

- (2) Subject to sub-section (3), the Authority must not refuse to issue a WorkCover insurance policy to an employer or to renew a WorkCover insurance policy issued to an employer.

- (3) Sub-section (2) does not apply in any case where—

- (a) the employer has not complied with any conditions prescribed by this Act or the regulations in respect of the issue or renewal of a WorkCover insurance policy; or
- (b) the employer has persistently failed to pay, or to pay when due and payable, premium or adjusted premium for a WorkCover insurance policy.

* * * * *

S. 10
amended by
No. 50/1994
s. 94,
substituted by
No. 81/1998
s. 7.

S. 11
repealed by
No. 81/1998
s. 7.

12. Inspection of policies

- (1) The Authority or a person authorised by the Authority may by notice in writing require an employer—

- (a) to produce for inspection the policy of insurance obtained by the employer and in force at such date or between such dates as the notice specifies; and

- (b) to supply such particulars in relation to the policy as the Authority or person may deem necessary.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 13

S. 12(2)
amended by
No. 50/1994
s. 95.

- (2) A worker or other person who has or may have a claim for compensation under the **Accident Compensation Act 1985** or at common law or otherwise for which the employer is or may be liable may by notice in writing require the employer to make available for inspection a policy of insurance in force in respect of the worker at the time the injury arose out of or in the course of employment.
- (3) A person on whom a notice is served under subsection (1) or (2) must comply with the notice.
Penalty: 20 penalty units.
- (4) An employer who obtains a policy of insurance must retain the policy in his or her possession in good order and condition until—
 - (a) there are no longer any workers in respect of whom the policy is in force still employed by the employer; or
 - (b) the policy is at least 7 years old—whichever occurs later.
Penalty: 20 penalty units.

S. 13
amended by
Nos 7/1996
s. 52, 81/1998
s. 8.

13. Evidence that employer has WorkCover insurance policy

A certificate issued by the Authority or a person authorised by the Authority for the purposes of this section certifying that on any date or during any period specified in the certificate a specified employer had or did not have a WorkCover insurance policy with either a specified authorised insurer or the Authority is admissible in any proceedings and is evidence of the particulars certified in the certificate.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 14

14. Employer ceasing to exist

(1) A worker may make an application to the County Court for a declaration under this section.

(2) The County Court may make a declaration that—

(a) an employer has entered into a policy of insurance with an authorised insurer named in the declaration or with the Authority; and

S. 14(2)(a)
amended by
No. 81/1998
s. 9(a).

(b) the employer—

(i) being a natural person, has died, or is permanently resident outside the Commonwealth of Australia and its Territories, or cannot after due inquiry and search be found;

(ii) being a corporation (other than a company which has commenced to be wound up) has ceased to exist;

(iii) being a company, corporation, society, association or other body (other than a company which has commenced to be wound up), was at the time when it commenced to employ the worker incorporated outside the Commonwealth of Australia and its Territories and registered as a foreign company under the laws of any State or Territory of the Commonwealth of Australia and is not at the time of the declaration so registered under any such law; or

(iv) being a company, has commenced to be wound up after entering into the policy of insurance with the authorised insurer.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 15

S. 14(3)
amended by
No. 81/1998
s. 9(b).

- (3) If a declaration is in force under this section, there is deemed to be a policy of insurance between the authorised insurer referred to in the declaration and the employer of the worker or between the Authority and the employer of the worker in respect of the liability of the employer to the worker under the **Accident Compensation Act 1985** and at common law or otherwise.

S. 15
amended by
No. 81/1998
s. 10(1) (ILA
s. 39B(1)).

15. Premiums order⁸

- (1) The Governor in Council may on the recommendation of the Authority by Order in Council make a premiums order—
- (a) specifying the methods to be used in calculating premiums payable by an employer for a WorkCover insurance policy; and
 - (b) prescribing or specifying any matter or thing required or permitted by this Act to be prescribed or specified by a premiums order.

S. 15(2)
inserted by
No. 81/1998
s. 10(1).

- (2) The Governor in Council may on the recommendation of the Authority by Order in Council amend a premiums order which is in force under sub-section (1) to insert provisions of a savings and transitional nature consequent on the enactment of the **Accident Compensation (Amendment) Act 1998**, including provisions providing for the construction of the premiums order.

S. 15(3)
inserted by
No. 81/1998
s. 10(1).

- (3) An Order in Council made under sub-section (2) has effect from the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998**.

16. Premiums order—general provisions

(1) A premiums order—

- (a) must be published in the Government Gazette;
- (b) takes effect on and from the date on which it is published or any later date of commencement as may be specified in the order;
- (c) applies to a WorkCover insurance policy which is in force in respect of a policy period commencing on or after the date of commencement of the premiums order.

S. 16(1)(c)
amended by
No. 7/1996
s. 53.

(2) A premiums order may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
- (c) specify different methods of calculation whether by reference to formulas, scales, tables or other means;
- (d) apply, adopt or incorporate (with or without modification) the provisions of any document, code, standard, rule, specification or method whether as formulated, issued, prescribed or published at the time the order is made;
- (e) authorise any specified person or body to determine or apply a specified matter or thing.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 17

S. 17
amended by
No. 82/2001
s. 27(a)(b).

**17. Premiums to be calculated in accordance with
premiums order**

The premium payable by an employer for a
WorkCover insurance policy must be calculated in
accordance with the relevant premiums order.

S. 17(2)
repealed by
No. 81/1998
s. 10(2).

* * * * *

S. 18
substituted by
No. 60/1996
s. 31.

18. Estimate of rateable remuneration

S. 18(1)
amended by
No. 81/1998
s. 11(1)(b).

(1) If—

S. 18(1)(a)
substituted by
No. 81/1998
s. 11(1)(a).

- (a) an employer receives a notice from the
Authority; and
- (b) the notice includes an estimate of rateable
remuneration that the employer will be liable
to pay to workers during the period not
exceeding 12 months specified in the
notice—

the estimate is deemed for the purposes of this Act
to be the estimate provided by the employer
unless the employer, within 28 days after
receiving the notice, or such longer period as may
be specified in the notice, provides to the
Authority another estimate of rateable
remuneration in a form approved by the Authority
which the employer estimates that the employer
will be liable to pay to workers during the period
referred to in paragraph (b).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 19

(2) If—

S. 18(2)
amended by
No. 81/1998
s. 11(1)(d).

(a) an employer receives a notice from the Authority; and

S. 18(2)(a)
substituted by
No. 81/1998
s. 11(1)(c).

(b) the notice does not include an estimate of rateable remuneration referred to in subsection (1)(b)—

the employer must, within 28 days after receiving the notice, or such longer period as is specified in the notice, provide to the Authority an estimate of rateable remuneration in a form approved by the Authority which the employer estimates that the employer will be liable to pay to workers during the period not exceeding 12 months specified in the notice.

Penalty: 20 penalty units.

19. Rateable remuneration—transitional

S. 19
substituted by
No. 107/1997
s. 66.

(1) The WorkCover Insurance Premiums Order 1997/98 is to be construed as if references to "remuneration", "assessable remuneration" and "rateable remuneration" in respect of remuneration paid or payable in respect of services performed or rendered on or after 1 January 1998 were references to "remuneration" within the meaning of the **Accident Compensation Act 1985** as amended by section 5 of the **Accident Compensation (Miscellaneous Amendment) Act 1997**.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 20

- (2) A revised estimate of rateable remuneration is not required under section 20 if the only reason that the actual rateable remuneration paid or payable exceeds the amounts referred to in that section is because of the amendment of the **Accident Compensation Act 1985** by section 5 of the **Accident Compensation (Miscellaneous Amendment) Act 1997**.

20. Revised estimates of rateable remuneration

S. 20(1)
amended by
No. 81/1998
s. 11(2).

- (1) If as a result of changed circumstances an employer becomes aware that the actual rateable remuneration paid or payable by the employer exceeds or is likely to exceed by more than 20 per cent or such other percentage as is prescribed the estimate of rateable remuneration previously provided by the employer for the whole of the policy period or previously assessed under section 24, the employer must advise the Authority of the changed circumstances and submit a revised estimate of rateable remuneration in a form approved by the Authority within 28 days of becoming aware of the changed circumstances.

S. 20(2)
amended by
No. 81/1998
s. 11(2).

- (2) If the actual rateable remuneration paid or payable by an employer as at any time before the last 2 months of a policy period exceeds the estimate of rateable remuneration previously provided by the employer for the whole of the policy period, the employer must advise the Authority and submit a revised estimate of rateable remuneration in a form approved by the Authority within 28 days of the actual rateable remuneration exceeding the estimate.
- (3) An employer who does not comply with this section is guilty of an offence and liable to a penalty not exceeding 20 penalty units.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 21

21. Adjustment of premium

If the Authority considers that the premium payable by an employer should be adjusted because the circumstances specified in sub-section (1) or (2) of section 20 apply, the Authority may issue a notice of adjusted premium to the employer.

S. 21
amended by
No. 81/1998
s. 11(3).

22. Application by employer to review premium

(1) An employer may apply to the Authority for the premium to be reviewed to determine whether the amount of the premium is the amount calculated in accordance with the relevant premiums order.

S. 22
amended by
No. 81/1998
s. 11(4),
substituted by
No. 82/2001
s. 28.

(1A) An application under sub-section (1) may only be made in relation to premium for—

S. 22(1A)
inserted by
No. 40/2004
s. 4(1).

- (a) the policy period current at the date on which the application is made;
- (b) any of the 4 completed policy periods before that period.

(2) On receiving such an application, the Authority must review the amount of the premium.

(3) In this section "**premium**" includes amounts—

S. 22(3)
inserted by
No. 40/2004
s. 4(2).

- (a) paid or payable as premium;
- (b) purportedly paid or payable as premium;
- (c) paid or payable as a default penalty, late payment penalty, interest or otherwise in respect of an amount paid or payable or purportedly paid or payable as premium;
- (d) purportedly paid or payable as a default penalty, late payment penalty, interest or otherwise in respect of an amount paid or payable or purportedly paid or payable as premium.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 22A

S. 22(4)
inserted by
No. 40/2004
s. 4(2).

- (4) If, in the course of a review under this section, the Authority determines that, in respect of any of the policy periods to which the application relates, there has been an adjustment to the premium which the Authority was not authorised to make, the Authority must discontinue that review and review the application under section 28A as if the application had been an application under section 22A.

S. 22A
inserted by
No. 60/1996
s. 32,
repealed by
No. 81/1998
s. 11(5), new
s. 22A
inserted by
No. 40/2004
s. 5.

22A. Application for refund of premium

S. 22A(1)
amended by
No. 102/2004
s. 43(1).

- (1) Proceedings for the refund or recovery of premium, whether paid before or after 6 May 2004, must not be brought, whether against the Authority or otherwise, except as provided in this section and section 22B.

S. 22A(2)
amended by
No. 102/2004
s. 43(2).

- (2) If an employer claims to be entitled to receive a refund of or to recover premium, paid or purportedly paid, the employer must lodge with the Authority an application, in a form approved by the Authority, for the refund of the payment.

S. 22A(3)
substituted by
No. 102/2004
s. 43(3).

- (3) An application under sub-section (2) must be lodged with the Authority within 5 years after the commencement of the policy period to which the payment of premium relates.
- (4) This section does not apply to a written request for a refund of premium received by the Authority before 6 May 2004.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 22B

(5) For the purposes of sub-section (4), a written request received by an authorised agent of the Authority is not to be taken to be received by the Authority unless the authorised agent has forwarded the request to the Authority, and the Authority has received that request, before 6 May 2004.

(6) In this section—

"premium" has the same meaning as in section 22(3);

"proceedings" includes—

- (a) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration of right or an injunction;
- (b) seeking any order under the **Administrative Law Act 1978**.

S. 22A(6) def. of "proceedings" amended by No. 102/2004 s. 43(4).

22B. What happens if Authority refuses or fails to determine an application for a refund or fails to make a refund?

S. 22B inserted by No. 102/2004 s. 44.

(1) This section applies if—

- (a) an employer has lodged an application with the Authority in accordance with section 22A; and
- (b) within the period of 4 months after the application was lodged, the Authority—
 - (i) by notice in writing to the employer refuses the application; or
 - (ii) fails to determine the application; or
 - (iii) determines that the employer is entitled to a refund but fails to make the refund.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 23

- (2) If this section applies, the employer may bring proceedings for the refund or recovery of the premium within the period of 4 months commencing after—
- (a) the day on which the period specified in sub-section (1)(b) ends; or
 - (b) the day which is the date of the notice of refusal—
- whichever first occurs.

- (3) In this section—

"premium" has the same meaning as in section 22(3);

"proceedings" includes—

- (a) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration of right or an injunction;
- (b) seeking any order under the **Administrative Law Act 1978**.

23. Certificate of rateable remuneration

- (1) The Authority may by notice in writing require an employer to provide a certified statement of rateable remuneration paid or payable by the employer in a form approved by the Authority during a specified policy period to workers employed by the employer to the Authority within 28 days of receiving the notice or such longer period as is specified in the notice.

S. 23(1)
amended by
No. 81/1998
s. 11(6)(a)(b).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 24

-
- (2) The Authority may by notice in writing require an employer who does not hold, or has not held, a WorkCover insurance policy to provide a certified statement of rateable remuneration paid or payable by the employer in a form approved by the Authority during a period specified in the notice to the Authority within 28 days of receiving the notice or such longer period as is specified in the notice.
- (3) An employer who does not comply with a notice received under sub-section (1) or (2) or who provides an incorrect statement is guilty of an offence and liable to a penalty not exceeding 20 penalty units.
- (4) The Authority may assess the rateable remuneration paid or payable by an employer to which sub-section (3) applies during the specified policy period and issue a notice of adjusted premium to the employer.

S. 23(2)
amended by
No. 107/1997
s. 67.

S. 23(3)
amended by
No. 7/1996
s. 54.

24. Assessment by Authority

If an employer fails to provide an estimate when required to do so under section 18, or the Authority considers that an estimate provided by the employer is incorrect, the Authority may—

- (a) assess the amount of rateable remuneration paid or payable by the employer; and
- (b) calculate the premium payable by the employer; and
- (c) serve a notice on the employer specifying the amount of premium payable.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 25

25. Default penalty

S. 25(1)
amended by
Nos 7/1996
s. 55(1)(c),
81/1998
s. 11(7).

(1) If—

S. 25(1)(a)
amended by
Nos 7/1996
s. 55(1)(a),
82/2001
s. 26(b).

(a) an employer does not comply with section 18 or 20 or a notice received under section 23(1) or 23(2); or

(b) an employer provides an incorrect statement under section 23; or

S. 25(1)(c)
amended by
No. 7/1996
s. 55(1)(b).

(c) the amount specified in a certified statement of rateable remuneration under section 23(1) or assessed under section 23(4) is more than 20 per cent or such other percentage as is prescribed higher than the previous estimate of rateable remuneration (if any) provided by the employer—

the employer is upon being served by the Authority with a notice under this section, liable to pay in addition to the difference between the premium that should have been payable by the employer and the premium calculated on the basis of the employer's rateable remuneration previously estimated, assessed or certified, as the case requires a default penalty of an amount equal to that difference.

(2) A default penalty under sub-section (1) is due and payable within 28 days of the date of the notice.

S. 25(3)
substituted by
No. 7/1996
s. 55(2).

(3) The Authority may remit the whole or any part of any default penalty imposed under this section.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 26

* * * * *

S. 25(4)
inserted by
No. 7/1996
s. 55(2),
repealed by
No. 81/1998
s. 11(8).

26. Payment of premiums

- (1) Subject to sub-sections (2) and (3), the premium calculated in accordance with this Part is due and payable by the employer at the commencement of the policy period.
- (2) An employer may elect to pay the premium due under a WorkCover insurance policy by monthly instalments in arrears or quarterly or annual instalments in advance in accordance with the premiums order.
- (3) The Authority may defer the payment of the whole or part of the premium to a date or dates after the commencement of the policy period.
- (4) The Authority may, by notice in writing to the employer, adjust the amount of the premium so that the amount is the amount calculated in accordance with the relevant premiums order.

S. 26(3)
substituted by
No. 81/1998
s. 11(9).

S. 26(4)
amended by
No. 81/1998
s. 11(10),
substituted by
No. 82/2001
s. 29.

27. Review of premium

- (1) The Authority may, in its absolute discretion, review the amount calculated as a premium in respect of one or more policy periods.
- (2) In conducting the review, the Authority may have regard to any matter relevant to the determination or calculation of the premium.

New s. 27
inserted by
No. 82/2001
s. 30.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 28

S. 27(3)
inserted by
No. 40/2004
s. 6.

(3) If, in the course of a review under this section, the Authority determines that, in respect of any of the policy periods to which the review relates, there has been an adjustment to the premium which the Authority was not authorised to make, the Authority must discontinue that review and conduct a review under section 28A as if an application under section 22A had been made.

S. 27(4)
inserted by
No. 40/2004
s. 6.

(4) If the Authority makes a determination under subsection (3) it must, by notice in writing, advise the employer of that determination.

New s. 28
inserted by
No. 82/2001
s. 30.

28. Adjustment of premium after review

(1) This section applies if, as the result of a review of a premium under section 22 or 27, the Authority is of the opinion that the amount calculated as the premium was not, or is not, calculated in accordance with the relevant premiums order.

(2) The Authority must, by notice in writing to the employer, adjust the amount of the premium so that the amount is the amount calculated in accordance with the relevant premiums order.

(3) In the case of a review under section 28A, an adjustment under this section may only relate to—

(a) in the case of an application under section 22 or 22A—

(i) the policy period current at the date on which the application is made;

(ii) any of the 4 completed policy periods before that period;

(iii) any other completed policy period if there is, or was, fraud on the part of the employer or of any person acting, or apparently acting, on the employer's behalf;

S. 28(3)
inserted by
No. 40/2004
s. 7.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 28A

-
- (b) in the case of a review in which the Authority has made a determination under section 27(3)—
- (i) the policy period current at the date of the notice under section 27(4);
 - (ii) any of the 4 completed policy periods before that date;
 - (iii) any other completed policy period if there is, or was, fraud on the part of the employer or of any person acting, or apparently acting, on the employer's behalf.

28A. Review of premium in certain circumstances

S. 28A
inserted by
No. 40/2004
s. 8.

- (1) This section applies if—
- (a) an employer makes an application under section 22A and the Authority was not authorised to adjust the premium in respect of which the application relates, at the time the Authority made the adjustment; or
 - (b) the Authority has made a determination under section 22(4) or 27(3).
- (2) The Authority may review the amount calculated as a premium in respect of premium for—
- (a) in the case of a determination under section 22(4) or an application under section 22A—
 - (i) the policy period current at the date on which the application is made;
 - (ii) any of the 4 completed policy periods before that period;

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 28B

- (b) in the case of a determination under section 27(3)—
 - (i) the policy period current at the date of the notice under section 27(4);
 - (ii) any of the 4 completed policy periods before that date.
- (3) In conducting the review, the Authority may have regard to any matter relevant to the determination or calculation of the premium.
- (4) In this section "**premium**" has the same meaning as in section 22(3).

S. 28B
inserted by
No. 40/2004
s. 8.

28B. Adjustment of premium after section 28A review

- (1) After conducting a review under section 28A, the Authority must determine—
 - (a) the reviewed assessment amount for the relevant period; and
 - (b) the total premium payment; and
 - (c) any deficit amount or excess amount.
- (2) The Authority must, by notice in writing to the employer—
 - (a) specify—
 - (i) the amount determined to be the reviewed assessment amount and the total premium payment; and
 - (ii) whether there is a deficit amount or an excess amount; and
 - (b) adjust the amount of the premium so that the amount is the reviewed assessment amount.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 29

(3) In this section—

"deficit amount" means the amount by which the reviewed assessment amount exceeds the total premium payment;

"excess amount" means the amount by which the total premium payment exceeds the reviewed assessment amount;

"premium" has the same meaning as in section 22(3);

"relevant period" means the total period specified in section 28A(2)(a) or 28A(2)(b);

"reviewed assessment amount" means the sum of the amounts which should have been calculated for each applicable premium order for the relevant period;

"total premium payment" means the total amount paid as premium during the relevant period.

29. Notice of adjustment

New s. 29
inserted by
No. 82/2001
s. 30.

(1) A notice to an employer under section 26(4), 28(2) or 28B(2) must state the amount of premium that is payable, or that should have been paid, for the relevant period.

S. 29(1)
amended by
No. 40/2004
s. 9.

(2) On the giving of the notice to the employer, the amount stated under sub-section (1) becomes the premium payable by the employer.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 30

New s. 30
inserted by
No. 82/2001
s. 30.

30. Exercise of review and adjustment powers

The Authority may exercise its powers under sections 22, 26, 27 and 28 regardless of whether or not—

- (a) the premium has been fixed, demanded or paid; or
- (b) the period being reviewed, or in respect of which an adjustment applies, is no longer the current policy period; or
- (c) the Authority has already reviewed the amount calculated as the premium for any policy period being reviewed, or has already adjusted the premium; or
- (d) any circumstances have arisen that would, but for this paragraph, estop the Authority from conducting a review of, or adjusting the amount of, the premium.

New s. 31
inserted by
No. 82/2001
s. 30.

31. Application of review and adjustment powers

- (1) The Authority is only entitled to recover the amount of any increased premium resulting from an adjustment under section 28 if the premium relates to one or more of the following—
 - (a) the policy period current at the date on which the notice under section 28 in respect of the amount was given to the employer;
 - (b) any of the 4 completed policy periods before that period;
 - (c) any other completed policy period if there is, or was, fraud on the part of the employer or of any person acting, or apparently acting, on the employer's behalf.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 2—WorkCover Insurance and Premiums

s. 31A

-
- (2) The Authority may exercise its powers under sections 22, 26, 27 and 28 in respect of an amount calculated as a premium that relates to a period that is before the date of commencement of section 30 of the **Accident Compensation (Amendment) Act 2001**.

31A. Refunds

S. 31A
inserted by
No. 40/2004
s. 10.

If, as a result of a review under section 28A the Authority determines there is an excess amount within the meaning of section 28B, the Authority—

- (a) must refund that excess amount to the employer; or
 - (b) must—
 - (i) apply that excess amount against any liability of the employer to the Authority under this Act; and
 - (ii) refund to the employer any part of that excess amount that is not so applied.
-

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 3—Licensing of WorkCover Insurers

s. 32

PART 3—LICENSING OF WORKCOVER INSURERS

S. 27 repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 28 amended by No. 50/1994 s. 96(1), repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 29 repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 30 amended by No. 50/1994 s. 96(1)(2), repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 31 repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 32 amended by No. 50/1994 s. 96(3), repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
Ss 33, 34 repealed by No. 81/1998 s. 12(1).	*	*	*	*	*
S. 35 amended by No. 50/1994 s. 96(1)(4), repealed by No. 81/1998 s. 12(1).	*	*	*	*	*

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 3—Licensing of WorkCover Insurers

s. 37

* * * * *

S. 36
repealed by
No. 81/1998
s. 12(1).

37. Records and evidence relating to licences

- (1) The Authority must keep records in relation to all licences granted by the Authority, including particulars of—
 - (a) the granting, refusal, duration, conditions, cancellation and suspension of licences; and
 - (b) such other matters relating to licences as the Authority considers appropriate.
- (2) A certificate issued by the Authority certifying that on any date or during any period specified in the certificate the particulars set forth in the certificate as to any of the matters referred to in sub-section (1) did or did not appear on or from the records of the Authority is admissible in any proceedings and is evidence of the particulars certified in the certificate.

* * * * *

S. 38
repealed by
No. 81/1998
s. 12(1).

39. Information and records to be supplied by insurers

- (1) The Authority may require a former authorised insurer—
 - (a) to disclose to the Authority specified information relating to the business and financial position of the former authorised insurer or of any corporation which is a related corporation; or

S. 39(1)
amended by
No. 81/1998
s. 12(2)(a).

S. 39(1)(a)
amended by
No. 81/1998
s. 12(2)(b).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 3—Licensing of WorkCover Insurers

s. 39

S. 39(1)(b)
amended by
No. 81/1998
s. 12(2)(b).

(b) to forward to the Authority, or make available for inspection, specified records, or copies or extracts from specified records, kept by the former authorised insurer or by any corporation which is a related corporation.

(2) A requirement under this section must—

S. 39(2)(a)
amended by
No. 81/1998
s. 12(2)(b).

(a) be made in writing and served on the former authorised insurer; and

(b) specify the manner in which and the time within which the requirement is to be complied with.

(3) The manner in which a requirement is to be complied with may include the supply to the Authority of a certificate by a registered tax agent, a registered company auditor or an actuary approved by the Authority as to the correctness of any specified information or specified records or copies of or extracts from specified records.

S. 39(4)
amended by
No. 81/1998
s. 12(2)(b).

(4) Unless the former authorised insurer satisfies the court that it is not within its power to comply with the requirement, an insurer who fails to comply with the requirement is guilty of an offence and liable to a penalty not exceeding 100 penalty units.

Ss 40, 41
repealed by
No. 81/1998
s. 12(1).

* * * * *

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 3—Licensing of WorkCover Insurers

s. 42

42. Payment of premiums

- (1) An employer must pay any premium under a WorkCover insurance policy direct to the Authority or where appropriate to an authorised agent.

Penalty: 50 penalty units.

- (2) A reference to a premium in this section includes a reference to a part of a premium.

S. 42 substituted by No. 81/1998 s. 13, amended by No. 82/2001 s. 31(1) (ILA s. 39B(1)).

S. 42(2) inserted by No. 82/2001 s. 31(1).

* * * * *

Pt 4 (Heading and ss 43–54) amended by Nos 50/1994 s. 97, 7/1996 ss 56, 58(a), repealed by No. 81/1998 s. 14(1).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 55

**PART 5—UNINSURED EMPLOYERS AND INDEMNITY
SCHEME**

55. Uninsured Employers and Indemnity Scheme

- (1) There is established a scheme called the Uninsured Employers and Indemnity Scheme.
- (2) A claim may be made under the Scheme by any person who considers that he or she has a claim in respect of an injury to a worker against an employer—

S. 55(2)(a)
substituted by
No. 7/1996
s. 51(5).

(a) in respect of which section 7(1A) applies; or

(b) who cannot be identified; or

(c) who cannot be found, is dead or has been wound up and was not the holder of a WorkCover insurance policy at the time of the relevant injury; or

(d) who exists and can be found but who was not the holder of a WorkCover insurance policy at the time of the relevant injury.

S. 56
repealed by
No. 81/1998
s. 14(2).

* * * * *

**57. Claims against section 55(2)(a) or 55(2)(d)
employers**

S. 57(1)
amended by
No. 7/1996
s. 51(6).

- (1) A claim for compensation against an employer in respect of which at the time of the relevant injury section 7(1A) applies or who was not the holder of a WorkCover insurance policy at the time of the relevant injury must first be given to or served on the employer.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 58

- (2) The employer must forward the claim to the Authority within 5 days of receiving it.
- (3) If a person making a claim for compensation becomes aware that the employer—
 - (a) has not complied or is not likely to comply with sub-section (2); or
 - (b) is refusing to receive the claim—that person may lodge the claim with the Authority.

- (4) Except as provided in this Part, Division 3 of Part IV of the **Accident Compensation Act 1985** applies in relation to the determination and management of the claim.

S. 57(4)
substituted by
No. 50/1994
s. 98.

- (5) An employer must not fail to comply with sub-section (2).

S. 57(5)
inserted by
No. 7/1996
s. 57.

Penalty: 10 penalty units for a first offence.
20 penalty units for a second or subsequent offence.

58. Registration of section 55(2)(a) employer

- (1) An employer to whom section 55(2)(a) applies must apply to the Authority to be registered and must submit the registration fee fixed in the premiums order.
- (2) An employer who fails to comply with sub-section (1) is to be treated as being uninsured during the relevant policy period.

59. Claims against section 55(2)(b) or 55(2)(c) employers

- (1) A claim for compensation against an employer who—
 - (a) cannot be identified after the claimant has taken reasonable steps to identify the relevant employer; or

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 59A

(b) cannot be found after the claimant has taken reasonable steps to find the employer or the employer is dead or has been wound up and who was not the holder of a WorkCover insurance policy at the time of the injury or death—

may be lodged with the Authority.

(2) The Authority may require a person lodging a claim under sub-section (1) to provide further information to the Authority.

S. 59(3)
substituted by
No. 50/1994
s. 99.

(3) Except as provided in this Part, Division 3 of Part IV of the **Accident Compensation Act 1985** applies in relation to the determination and management of the claim.

S. 59(3A)
inserted by
No. 50/1994
s. 99.

(3A) Subject to sub-section (4), section 109 of the **Accident Compensation Act 1985** applies in respect of a claim under this section as if the reference to 28 days were a reference to 35 days.

S. 59(4)
substituted by
No. 50/1994
s. 99

(4) If the relevant employer is identified and was at the time of the injury the holder of a WorkCover insurance policy, section 109 of the **Accident Compensation Act 1985** applies as if the reference to 28 days of receiving the claim were a reference to 28 days from the time that the employer is identified.

S. 59A
inserted by
No. 50/1994
s. 100,
amended by
No. 81/1998
s. 14(3).

59A. Common law claim

If—

(a) a worker has suffered an injury in circumstances which entitle or would entitle the worker or the dependants of the worker to compensation under the **Accident Compensation Act 1985**; and

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 59B

- (b) the injury arose out of or in the course of or due to the nature of employment with an employer to whom section 55(2)(b), 55(2)(c) or 55(2)(d) applies—

the worker or dependants may recover from the Authority a sum equivalent to the amount for which the worker or dependants could have obtained judgment at common law or otherwise against the employer subject to any limitation of liability in the deemed contract of insurance under section 59B on or after 4 p.m. on 30 June 1993.

59B. Deemed contract of insurance

S. 59B
inserted by
No. 50/1994
s. 100.

- (1) There is deemed to be a contract of insurance in the form approved by the Authority in respect of an employer's liability to which section 59A applies between the employer and the Authority.
- (1A) A deemed contract of insurance does not indemnify an employer in respect of any liability of the employer to pay compensation for a matter for which compensation is awarded under Subdivision (1) of Division 2 of Part 4 of the **Sentencing Act 1991**.
- (2) For the purposes of a deemed contract of insurance—
- (a) the Authority may undertake the settlement of any claim against the employer insured under the contract;
- (b) the Authority may take over during such period as it thinks proper the conduct and control on behalf of the employer of any proceedings taken or had to enforce such claim or for the settlement of any question arising with reference thereto;
- (c) the Authority may defend or conduct such proceedings in the name of the employer and on the employer's behalf.

S. 59B(1A)
inserted by
No. 26/2000
s. 27(2),
amended by
No. 54/2000
s. 25(5).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 60

- (3) The Authority may recover under section 61 any amount paid under a deemed contract of insurance.

60. Authority may require employer to provide information

- (1) The Authority may by notice in writing require an employer or a person whom the Authority suspects is an employer to provide to the Authority within the period specified in the notice any information specified in the notice which may be in the employer's or that person's possession and is required by the Authority in order to deal with a claim under this Part.
- (2) A person must comply with a notice under subsection (1).

Penalty: 20 penalty units.

61. Authority may recover amount in relation to claim

- (1) The Authority may serve a notice in writing on a person who, in the opinion of the Authority, was—
- (a) in respect of an injured worker to or in respect of whom compensation has been paid or is payable under the Uninsured Employers and Indemnity Scheme, an employer at the relevant time;

S. 61(1)
amended by
No. 50/1994
s. 101(1).

S. 61(1)(a)
amended by
No. 81/1998
s. 14(4)(a).

S. 61(1)(b)
repealed by
No. 81/1998
s. 14(4)(b).

* * * * *

requiring that person, within a period specified in the notice, to reimburse to the Authority an amount specified in the notice.

S. 61(1A)
inserted by
No. 50/1994
s. 101(2).

- (1A) Sub-section (1) does not apply to an employer to whom section 55(2)(a) applies who is registered under section 58.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 5—Uninsured Employers and Indemnity Scheme

s. 61

-
- (2) The Authority may, by instrument in writing, waive all or part of the liability of an employer under sub-section (1) to reimburse the Authority an amount, if the Authority is satisfied that—
- (a) the amount is beyond the capacity of the employer to pay; or
 - (b) the employer could not reasonably have been expected to regard himself or herself as an employer at the relevant time; or
 - (c) the employer, not being a corporation, is bankrupt and the liability under this section is not provable in the bankruptcy; or
 - (d) the employer, being a corporation, is being wound up and the liability under this section is not provable in the winding up; or
 - (e) the employer, being a corporation, has been dissolved; or
 - (f) it would not be commercially feasible for the Authority to attempt to recover the amount.
- (3) A person on whom a notice has been served under sub-section (1) in respect of an injured worker may, within the period specified in the notice, apply to the appropriate court having jurisdiction in relation to the claim under the **Accident Compensation Act 1985** for a determination as to the person's liability under this Act.
- (4) The Authority may recover an amount specified in a notice served under sub-section (1) if an application has not been made under sub-section (3) from the person to whom the notice was given as a debt in a court of competent jurisdiction.

S. 61(2)
amended by
No. 40/2004
s. 11.

62. General power of Authority in relation to proceedings

(1) If—

- (a) a claim under the Uninsured Employers and Indemnity Scheme has been made and the employer does not appear and defend the application for an award of compensation; or
- (b) an award of compensation has, prior to the making of the claim, been obtained in default of appearance by the employer, or by consent of the worker and the employer; or
- (c) the Authority for any reason thinks fit—

the Authority may cause to be made such inquiries as it thinks fit to determine the genuineness of the grounds on which the award is sought or was based.

- (2) The court having jurisdiction in relation to the matter under the **Accident Compensation Act 1985** may adjourn an application referred to in sub-section (1) or, if an award has been made, may reopen the proceedings and order some fit person to take and defend the proceedings in substitution for the employer, and for those purposes all the rights of the employer shall be subrogated to that person.

At any hearing of an application under this section, the Authority may appear before the court and exercise in respect of any matters and questions arising out of the application the same powers, rights and authorities as an employer may exercise in respect of a claim between a worker and an employer under this Act.

PART 6—GENERAL PROVISIONS

63. Transfer of Authority's liability⁹

(1) The liability of the Authority in respect of injuries to a worker arising out of or in the course of or due to the nature of employment after 4 p.m. on 31 August 1985 but before 4 p.m. on 30 June 1993 under the **Accident Compensation Act 1985** to pay compensation or as an insurer under that Act is by virtue of this section transferred to authorised insurers on the following basis—

S. 63 amended by Nos 50/1994 s. 90(1), 81/1998 s. 15 (ILA s. 39B(1)).

- (a) to the authorised insurer which has issued or renewed the current WorkCover insurance policy of an employer, if the injury to the worker arose out of or in the course of or due to the nature of employment with that employer after 4 p.m. on 31 August 1985 but before 4 p.m. on 30 June 1993;
- (b) if paragraph (a) does not apply, to an authorised insurer determined by the Authority.

S. 63(1)(a) amended by No. 50/1994 s. 90(1).

(2) The liability transferred to authorised insurers under sub-section (1) and held by authorised insurers immediately before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** is by virtue of this section transferred to the Authority.

S. 63(2) inserted by No. 81/1998 s. 15.

64. Transfer of rights, obligations and liabilities

The liability of an authorised insurer to indemnify an employer under a WorkCover insurance policy and the rights, obligations and liabilities of the authorised insurer under the WorkCover insurance policy are by virtue of this section transferred to the Authority.

S. 64 substituted by No. 81/1998 s. 16.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 65

65. Reciprocal agreements

- (1) The Authority may enter into an agreement with a person or body constituted by or under the law of another State or Territory or of the Commonwealth relating to the payment of premium or other amounts in respect of remuneration paid or payable in respect of services performed or rendered partly in Victoria and partly in the corresponding state.
- (2) An agreement under sub-section (1) may provide—
 - (a) that the provisions of this Act apply and the provisions of the law of the corresponding state do not apply in respect of remuneration paid or payable in respect of services performed or rendered partly in Victoria and partly in the corresponding state; or
 - (b) that the provisions of the law of the corresponding state apply and the provisions of this Act do not apply in respect of such remuneration.

S. 65(2)(a)
amended by
No. 7/1996
s. 58(b).

66. Groups

- (1) For the purposes of this Act, if—
 - (a) an employer that is a body corporate and another body corporate ("**related person**") are, by reason of section 50 of the Corporations Act related to each other; or
 - (b) one or more workers of an employer perform duties for or in connection with one or more businesses carried on by the employer and one or more other persons ("**associates**"); or
 - (c) one or more workers of an employer are employed solely or mainly to perform duties for or in connection with one or more

S. 66
amended by
Nos 50/1994
s. 102, 7/1996
s. 58(c),
44/2001
s. 3(Sch.
items 1.1, 1.2),
substituted by
No. 40/2004
s. 12.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

-
- businesses carried on by one or more other persons ("**associates**"); or
- (d) one or more workers of an employer perform duties for or in connection with one or more businesses carried on by one or more other persons ("**associates**"), being duties performed in connection with, or in fulfilment of the employer's obligation under, an agreement, arrangement or undertaking for the provision of services to any one or more of the associates in connection with that business or those businesses—
- (i) whether the agreement, arrangement or undertaking is formal or informal, express or implied; and
 - (ii) whether or not the agreement, arrangement or undertaking provides for duties to be performed by the workers or specifies the duties to be performed by them—

the employer and all persons who are related persons or associates in relation to that employer together constitute a group and each is a member of that group.

Note: Sub-section (8) allows the Authority to exclude members from a group constituted under this sub-section in certain circumstances.

- (2) If the same person has, or the same persons have together, a controlling interest under sub-section (3) in each of two businesses, the persons who carry on those businesses constitute a group and each is a member of the group.

Note: Sub-section (8) allows the Authority to exclude members from a group constituted under this sub-section in certain circumstances.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

-
- (3) For the purposes of sub-section (2), the same person has, or the same persons have together, a controlling interest in each of two businesses if that person has, or those persons have together, a controlling interest under any of the following paragraphs in one of the businesses and a controlling interest under the same or another of the following paragraphs in the other business—
- (a) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation, if the directors, or a majority of the directors, or one or more of the directors, being a director or directors who is or are entitled to exercise a majority in voting power at meetings of the directors, of the corporation are or is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person or of those persons acting together;
 - (b) a person has, or persons have together, a controlling interest in a business, being a business carried on by a corporation that has a share capital, if that person or those persons acting together may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50 per cent or more of the voting power attached to voting shares, or any class of voting shares, issued by the corporation;

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

-
- (c) a person has, or persons have together, a controlling interest in a business if that person, or those persons together—
- (i) constitute more than 50 per cent of the board of management (by whatever name called) of the body corporate or unincorporate carrying on the business; or
 - (ii) control the composition of that board;
- (d) a person has, or persons have together, a controlling interest in a business, being a business carried on by a partnership, if that person or those persons—
- (i) owns, or own together, (whether or not beneficially) 50 per cent or more of the capital of the partnership; or
 - (ii) is, or are together, entitled (whether or not beneficially) to 50 per cent or more of any profits of the partnership;
- (e) a person has, or persons have together, a controlling interest in a business, being a business carried on under a trust, if that person (whether or not as the trustee of, or beneficiary under, another trust) is the beneficiary, or those persons (whether or not as the trustees of, or beneficiaries under, another trust) are together the beneficiaries, in respect of 50 per cent or more of the value of the interests in the trust first-mentioned in this paragraph;
- (f) a person has a controlling interest in a business if, whether or not the person is a trustee of a trust, the person is the sole owner of the business or persons, being two or more trustees of a trust, have a controlling interest
-

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

in a business if they are the owners of the business.

- (4) A person who, as the result of the exercise of a power or discretion by the trustee of a discretionary trust or by any other person or by that trustee and other person, may benefit under that trust is deemed, for the purposes of this Act, to be a beneficiary in respect of 50 per cent or more of the value of the interests in that trust.
- (5) If a body corporate has a controlling interest under sub-section (3) in a business, it is deemed, for the purposes of sub-section (3), to have a controlling interest in any other business in which another body corporate that is, by reason of section 50 of the Corporations Act, related to it, has a controlling interest.
- (6) If—
- (a) a person has, or persons have together, a controlling interest under sub-section (3) in a business; and
 - (b) the person or persons who carries or carry on that business has or have such a controlling interest in another business—

the person or persons referred to in paragraph (a) are deemed, for the purposes of sub-section (3), to have a controlling interest in the business referred to in paragraph (b).

- (7) If—
- (a) a person is a beneficiary under a trust; or
 - (b) two or more persons together are beneficiaries under a trust—

in respect of 50 per cent or more of the value of the interests in that trust and the trustee or trustees of that trust has or have under sub-section (3) a controlling interest in a business, that beneficiary

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

-
- or those beneficiaries are deemed, for the purposes of sub-section (3) to have a controlling interest in that business.
- (8) If the Authority is satisfied, having regard to the nature and degree of ownership and control of the businesses, the nature of the businesses and any other matters the Authority considers relevant, that a business carried on by a member of a group, other than a group constituted by reason of sub-section (10), is carried on independently of, and is not connected with the carrying on of, a business carried on by any other member of that group, the Authority may exclude the member from that group.
- (9) The Authority must not, under sub-section (8), exclude a person from a group if the person is a body corporate that, by reason of section 50 of the Corporations Act, is related to another body corporate that is a member of that group.
- (10) Subject to sub-section (11), for the purposes of this section, if an employer is a member of a group and that person or another member of that group is a member of another group, a person who is a member of that other group is—
- (a) deemed to be a member of the first-mentioned group; and
 - (b) called an "**associate**".
- (11) Sub-section (10) does not apply if a person satisfies the Authority that—
- (a) the trade, business or profession carried on by that person is carried on independently of, and is not connected with the carrying on of a trade, business or profession carried on by a member of the first-mentioned group; and
-

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66

(b) that trade, business or profession is not carried on with an intention, either directly or indirectly, of reducing the amount of premium payable by that person or another member of the group.

(12) In this section—

"business" includes—

- (a) a trade or profession; and
- (b) any other activity carried on for fee, gain or reward; and
- (c) the activity—
 - (i) of employing one or more persons if that person performs, or those persons perform, duties for or in connection with another business; or
 - (ii) of holding any money, property or shares used for or in connection with another business.;

"person" includes a body or association (corporate or unincorporate) and a partnership.

(13) This section applies whether or not an employer became a member of the group before, on or after the commencement of section 12 of the **Treasury and Finance Legislation (Amendment) Act 2004**.

(14) This section does not affect the calculation of premium for any period before 1 July 2004.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 66A

66A. Joint and several liability of group members

S. 66A
inserted by
No. 40/2004
s. 13.

- (1) A person who, during a period, is or was a member of a group within the meaning of section 66 is jointly and severally liable with the other persons who are or were members of the group during that period to pay premium and penalties payable by members of that group in respect of that period.
- (2) For the avoidance of doubt, sub-section (1) applies whether or not—
 - (a) the person was an employer during the relevant period;
 - (b) an employer became a member of the group before, on or after the commencement of section 13 of the **Treasury and Finance Legislation (Amendment) Act 2004**.
- (3) Sub-section (1) does not apply to a premium or penalty payable by the group before the commencement of section 13 of the **Treasury and Finance Legislation (Amendment) Act 2004**.
- (4) In this section "**person**" includes a body or association (corporate or unincorporate) and a partnership.

* * * * *

S. 67
repealed by
No. 40/2004
s. 14.

68. Recovery of premium or penalty

- (1) This section is in addition to and not in derogation from the rights of recovery by the Authority under a WorkCover insurance policy.

S. 68(1)
amended by
No. 81/1998
s. 17.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 68

-
- (2) Any premium or penalty imposed under this Act and which is unpaid may be sued for and recovered—
- (a) irrespective of the amount of the premium or penalty, in the Magistrates' Court; or
 - (b) in any other court of competent jurisdiction—
- by the Authority suing in the name of the Authority or by a person employed in the administration of this Act and authorised to sue for and recover premium or penalty on behalf of the Authority suing in the name of the Authority.
- (3) Proceedings under this section brought in the name of the Authority are, in the absence of evidence to the contrary, deemed to have been brought by authority of the Authority.
- (4) The person referred to in sub-section (2) may appear in proceedings brought under this section on behalf of the Authority.
- (5) Notwithstanding any Act or any rule of the court to the contrary, in any proceedings for the recovery of a premium or penalty against any person it is sufficient to disclose a cause of action in such proceedings if the particulars of demand state in respect of what remuneration the premium or penalty is payable, the amount sought to be recovered, the date on which the amount was payable and such further and other particulars as the Authority thinks necessary fully to inform the defendant of the nature of the demand.
- (6) A reference to a premium or penalty in this section includes a reference to a part of a premium or penalty.

S. 68(6)
inserted by
No. 82/2001
s. 31(2).

69. Books and accounts to be preserved

- (1) A person who is or was an employer required to obtain and keep in force a WorkCover insurance policy under this Act must keep proper books and preserve those books for a period of not less than 5 years after the completion of the transactions to which they relate.

Penalty: 10 penalty units.

- (2) This section does not apply so as to require the preservation of any books—
- (a) in respect of which the Authority has notified the employer that preservation is not required; or
 - (b) of a corporation which has gone into liquidation and which has been finally dissolved.

70. Warrants to enter and search

- (1) If a magistrate is satisfied, by the evidence on oath or by affidavit of the Authority, that there is reasonable ground for suspecting that there are on particular premises any books which are relevant to the assessment of a premium the magistrate may issue a warrant authorising any member of the police force together with any other person named in the warrant—
- (a) to enter those premises (using such force as is necessary for the purpose);
 - (b) to search the premises and to break open and search any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, in the premises;
 - (c) to take possession of, or secure against interference, any books that appear to be relevant to the assessment of a premium; and

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 70

S. 70(1)(d)
amended by
No. 7/1996
s. 58(d).

(d) to deliver any books, possession of which is so taken, into the possession of the Authority or a person authorised by the Authority to receive them.

(2) Every warrant under sub-section (1) may be in the prescribed form and must not be granted except in accordance with sub-section (1).

(3) Where, under this section, a person takes possession of, or secures against interference, any books, that person or any person to whose possession they are delivered under sub-section (1)(d)—

(a) may make copies of, or take extracts from, the books;

(b) may retain possession of the books for such period as is necessary to enable them to be inspected, and copies of, or extracts from, them to be made or taken, by or on behalf of the Authority; and

(c) during that period must permit a person who would be entitled to inspect any one or more of those books if they were not in the possession of the first-mentioned person to inspect at all reasonable times such of those books as that person would be so entitled to inspect.

S. 70(3A)
inserted by
No. 107/1997
s. 68.

(3A) If the Authority considers that it may be necessary to prove the physical properties of any books or of the contents of any books of which possession has been retained under sub-section (3)(b) in any criminal proceedings, the Authority may apply to the magistrate who issued the warrant under sub-section (1) for an order authorising the Authority to retain possession of the books specified in the order until the criminal proceedings are concluded.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 70

(3B) If the magistrate is satisfied that there is reasonable ground to believe that the physical properties of the books or of the contents of the books are material evidence in the proposed criminal proceedings, the magistrate may make the order specified in sub-section (3A).

S. 70(3B)
inserted by
No. 107/1997
s. 68.

(3C) For the purposes of sub-sections (3A) and (3B), "physical properties" includes, but is not limited to—

S. 70(3C)
inserted by
No. 107/1997
s. 68.

- (a) whether or not the books or any of the contents of the books have been forged or tampered with;
- (b) whether or not there are finger prints on the books which establish who had physical possession of the books before the books were seized under this section;
- (c) whether or not handwriting in any of the books belongs to a particular person.

(4) Every person who—

- (a) refuses to permit any such search or seizure as is referred to in this section to be made; or
- (b) assaults, opposes, molests or obstructs any person employed or acting in the execution or under the authority of such warrant or aiding or assisting in the execution thereof—

is liable to a penalty not exceeding 100 penalty units.

71. Evidence

- (1) For the purposes of any proceedings against a person for the recovery of a premium or penalty, a certificate purporting to be issued by the Authority or an authorised insurer certifying that—
 - (a) the person named in the certificate was liable to the premium or penalty in respect of the period specified in the certificate; or
 - (b) an assessment of the premium or penalty was duly made against the person; or
 - (c) the particulars of the assessment or penalty are as stated in the certificate; or
 - (d) notice of the assessment or penalty was duly served upon the person; or
 - (e) the amount specified in the certificate was at the date of the certificate payable as the premium or penalty by the person named in the certificate—

is evidence of the matters so certified.

- (2) The production of a notice of assessment, or a document purporting to be executed in accordance with section 18(3) of the **Accident Compensation Act 1985** or under the seal of an authorised insurer purporting to be a copy of a notice of assessment, is conclusive evidence of the due making of the assessment and that the amount and all particulars of the assessment are correct.
- (3) The production of any document purporting to be executed in accordance with section 18(3) of the **Accident Compensation Act 1985** or under the seal of an authorised insurer (that document purporting to be a copy of or extract from any document or return furnished to, or of any document issued by, the Authority or an authorised insurer) is for all purposes sufficient

S. 71(2)
amended by
No. 28/2005
s. 27(1).

S. 71(3)
amended by
No. 28/2005
s. 27(2).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 72

evidence of the matter therein set forth, without producing the original.

72. Regulations

- (1) The Governor in Council may make regulations for or with respect to prescribing any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) Regulations made under this Act—
 - (a) may be of general or of specially limited application;
 - (b) may differ according to differences in time, place or circumstances;
 - (c) may leave any matter or things to be from time to time determined, applied, dispensed with or regulated by a person or body specified in the regulation;
 - (d) may confer powers or impose duties in connection with the regulations on a person or body specified in the regulations;
 - (e) may apply, adopt or incorporate, with or without modification any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any authority or body as formulated, issued, prescribed or published at the time the regulation is made or at any time before the regulation is made;

S. 72(2)(c)
amended by
No. 7/1996
s. 58(e).

S. 72(2)(d)
amended by
No. 7/1996
s. 58(f).

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 6—General Provisions

s. 72

-
- (f) may make provision for or in relation to any matter by applying, adopting or incorporating, with or without modification, the provisions of any Act of the Commonwealth or of any statutory rule or other instrument made under an Act of the Commonwealth, as in force at a particular time or as in force from time to time;
 - (g) may impose a penalty not exceeding 10 penalty units for any contravention of the regulations.
-

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 7—Saving and Transitional

s. 73

PART 7—SAVING AND TRANSITIONAL

Pt 7
(Heading and
ss 73–78)
repealed by
No. 50/1994
s. 104,
new Pt 7
(Heading and
ss 73–77)
inserted by
No. 81/1998
s. 18.

73. Authority is successor in law

For the purposes of this Act and the **Accident Compensation Act 1985**, the Authority is the successor in law of an authorised insurer.

New s. 73
inserted by
No. 81/1998
s. 18.

74. Transitional provisions

Without limiting section 73, for the purposes of this Act and the **Accident Compensation Act 1985**—

New s. 74
inserted by
No. 81/1998
s. 18.

- (a) anything of a continuing nature done, commenced or made by or in relation to an authorised insurer under this Act or the **Accident Compensation Act 1985** before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** may be done, enforced or completed by or in relation to the Authority;
- (b) anything of a continuing nature done, commenced or made by or in relation to a WorkCover insurance policy or a claim for compensation by an authorised insurer under this Act or the **Accident Compensation Act 1985** before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** may be done, enforced or completed by the Authority;

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 7—Saving and Transitional

s. 75

- (c) the Authority is substituted for an authorised insurer as a party in any proceedings or dispute to which the authorised insurer was a party under this Act or the **Accident Compensation Act 1985** pending or existing in any court, tribunal, conciliation or Medical Panel before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** and the Authority has the same rights in the proceedings or dispute as the authorised insurer had;
- (d) on and after the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998**, any reference in any Act, regulation, contract, WorkCover insurance policy, application, notice, claim, statement, offer, referral, determination, decision order or other document to an authorised insurer, is to the extent that the reference relates to any act, matter or thing under this Act or the **Accident Compensation Act 1985**, to be construed as a reference to the Authority;
- (e) all WorkCover insurance policies are deemed to have been issued or renewed by the Authority and all acts or things done or omitted to be done by the Authority under a WorkCover insurance policy issued or renewed by an authorised insurer shall be as valid and effectual and have the same consequences as if those acts or things had been done or omitted to be done by the authorised insurer.

New s. 75
inserted by
No. 81/1998
s. 18.

75. Cancellation of licences

- (1) Any licence in force under Part 3 immediately before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** is by virtue of this section cancelled.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 7—Saving and Transitional

s. 76

-
- (2) Any right or privilege acquired or accrued against the State of Victoria or the Authority in respect of a licence cancelled by this section is extinguished, despite anything to the contrary in section 14(2) of the **Interpretation of Legislation Act 1984**.
 - (3) Despite any Act or law to the contrary, the State of Victoria and the Authority are not liable in any way for any loss, damage or injury whatsoever resulting from the cancellation of a licence under this section.
 - (4) Except as otherwise provided in this section, the cancellation of a licence under this section does not affect any rights, obligations and liabilities accrued or incurred before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998**.

76. Re-insurance arrangements

- (1) Any re-insurance arrangement in force under section 34 immediately before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998** is by virtue of this section terminated.
- (2) Despite any Act or law to the contrary, the State of Victoria and the Authority are not liable in any way for any loss, damage or injury whatsoever resulting from the termination of a re-insurance arrangement under this section.
- (3) The termination of a re-insurance arrangement under this section does not affect any rights, obligations and liabilities accrued or incurred before the commencement of Part 2 of the **Accident Compensation (Amendment) Act 1998**.

New s. 76
inserted by
No. 81/1998
s. 18.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Part 7—Saving and Transitional

s. 77

New s. 77
inserted by
No. 81/1998
s. 18,
amended by
No. 40/2004
s. 15 (ILA
s. 39B(1)).

S. 77(2)
inserted by
No. 40/2004
s. 15.

77. Supreme Court—limitation of jurisdiction

- (1) It is the intention of sections 75 and 76 to alter or vary section 85 of the **Constitution Act 1975**.

- (2) It is the intention of section 22A as inserted by section 5 of the **Treasury and Finance Legislation (Amendment) Act 2004** to alter or vary section 85 of the **Constitution Act 1975**.

Pt 8
(Heading and
ss 79–110)
repealed by
No. 50/1994
s. 104.

* * * * *

Pt 9
(Heading and
ss 111–113)
repealed by
No. 50/1994
s. 104.

* * * * *

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 29 April 1993

Legislative Council: 14 May 1993

The long title for the Bill for this Act was "A Bill to require compulsory WorkCover insurance for employers and to establish a WorkCover insurance system, to generally amend the **Accident Compensation Act 1985** and the **Workers Compensation Act 1958** and to make minor amendments to the **Stamps Act 1958** and the **Accident Compensation (WorkCover) Act 1992** and for other purposes."

The **Accident Compensation (WorkCover Insurance) Act 1993** was assented to on 1 June 1993 and came into operation as follows:

Part 1 (sections 1–6), sections 19, 94(1), 102, 110(1), 111(1) on 1 June 1993: s. 2(1); sections 111(2), 112(1) on 19 November 1992: section 2(2)(a);

Sections 84(1), 92, 94(2), 95, 100, 110(2) on 1 December 1992: section 2(2)(b);

Section 93 on 1 April 1993: s. 2(2)(c);

Sections 87, 88 on 29 April 1993: s. 2(2)(d);

Part 3 (sections 27–42), sections 7–11, 15–17, 72, 78(1)(b), 79, 80(1)(a)(e), 85, 86, 89, 90, 98, 103–108, 109(1)(2), 112(2), 113 on 16 June 1993; sections 12–14, 18, 20–26, 55, 57–71, 73, 75, 78(1)(c)–(h)(2), 83, 101 on 30 June 1993; Part 4 (sections 43–54), sections 56, 74, 76, 78(1)(a), 80(1)(b)–(d)(2), 81, 84(2), 91, 99, 109(3) on 1 July 1993; sections 96, 97 on 1 August 1993: Special Gazette (No. 39) 16 June 1993 page 1;

Sections 77, 82 never proclaimed, repealed by No. 50/1994 section 104.

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Accident Compensation (WorkCover Insurance) Act 1993** by Acts and subordinate instruments.

Accident Compensation (Amendment) Act 1994, No. 50/1994

Assent Date: 15.6.94
Commencement Date: Ss 89, 90(1)(2) on 1.6.93: s. 2(2)(c); s. 92(2) at 4 p.m. on 30.6.93: s. 2(2)(d); ss 88, 90(3)(4), 92(1), 94–97, 100–104 on 24.6.94: Special Gazette (No. 37) 24.6.94 p. 2—see **Interpretation of Legislation Act 1984**; ss 91, 93, 98, 99 on 1.7.94: Special Gazette (No. 37) on 24.6.94 p. 2
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Transport Accident (General Amendment) Act 1994, No. 84/1994

Assent Date: 29.11.94
Commencement Date: S. 64 on 1.1.95: Special Gazette (No. 96) 13.12.94 pp 1, 2
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Amendment) Act 1996, No. 7/1996

Assent Date: 25.6.96
Commencement Date: Ss 52–54, 55(1), 58 on 25.6.96; ss 51, 55(2), 56, 57 on 1.7.96: Special Gazette (No. 71) 25.6.96 p. 2
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Education (Amendment) Act 1996, No. 47/1996

Assent Date: 26.11.96
Commencement Date: S. 24 on 1.1.97: s. 2(1)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Further Amendment) Act 1996, No. 60/1996

Assent Date: 17.12.96
Commencement Date: S. 31 on 17.12.96: s. 2(1); s. 32 on 1.7.98
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Endnotes

Vocational Education and Training (Training Framework) Act 1997, No. 80/1997

Assent Date: 25.11.97
Commencement Date: S. 51 on 1.1.98: Government Gazette 18.12.97 p. 3614
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Miscellaneous Amendment) Act 1997, No. 107/1997

Assent Date: 23.12.97
Commencement Date: S. 67 on 23.12.97: s. 2(1); ss 65, 66 on 1.1.98: s. 2(3); ss 64, 68 on 1.2.98: Government Gazette 22.1.98 p. 101
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Amendment) Act 1998, No. 81/1998

Assent Date: 17.11.98
Commencement Date: Ss 3–18 at 4 p.m. on 30.6.99: s. 2(4)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Common Law and Benefits) Act 2000, No. 26/2000

Assent Date: 30.5.00
Commencement Date: S. 27 on 1.7.97: s. 2(3)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Victims of Crime Assistance (Amendment) Act 2000, No. 54/2000

Assent Date: 12.9.00
Commencement Date: S. 25(5) on 1.1.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 1) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Amendment) Act 2001, No. 82/2001

Assent Date: 11.12.01
Commencement Date: Pt 5 (ss 26–31) on 12.12.01: s. 2(1)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

Endnotes

Accident Compensation and Transport Accident Acts (Amendment) Act 2003, No. 95/2003

Assent Date: 2.12.03
Commencement Date: S. 24 on 1.9.04: Government Gazette 26.8.04 p. 2363
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Treasury and Finance Legislation (Amendment) Act 2004, No. 40/2004

Assent Date: 8.6.04
Commencement Date: Ss 4–10, 15 on 6.5.04: s. 2(2); ss 11–14 on 9.6.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation Legislation (Amendment) Act 2004, No. 102/2004

Assent Date: 21.12.04
Commencement Date: Ss 42–44 on 21.12.04: s. 2(1)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

Accident Compensation (Amendment) Act 2005, No. 28/2005

Assent Date: 21.6.05
Commencement Date: Pt. 3 Div. 2 (s. 27) on 22.6.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Accident Compensation (WorkCover Insurance) Act 1993**

3. Explanatory Details

¹ S. 7(1): Section 51(4) of the **Accident Compensation (Amendment) Act 1996**, No. 7/1996 reads as follows:

51. Amendment of section 7

- (4) Section 7 of the **Accident Compensation (WorkCover Insurance) Act 1993** as amended by this section applies to and in respect of the financial year commencing on 1 July 1996 and to each subsequent financial year.

² S. 7(1)(a): Section 90(3)(4) of the **Accident Compensation (Amendment) Act 1994**, No. 50/1994 reads as follows:

90. References

- (3) The Principal Act is deemed to have been enacted as amended by this section.
- (4) A WorkCover insurance policy issued before the enactment of this Act is deemed to have been issued under the Principal Act as amended by this section.

³ S. 7(1A): See note 1.

⁴ S. 7(1B): See note 1.

⁵ S. 7(4): See note 1.

⁶ S. 7(4A): Section 92(2) of the **Accident Compensation (Amendment) Act 1994**, No. 50/1994 reads as follows:

92. WorkCover Insurance for work experience students

- (2) The Authority must calculate or adjust the relevant premiums payable in respect of WorkCover insurance policies issued for the financial year 1993-1994 as if the Principal Act was in force at 4 p.m. on 30 June 1993 as amended by sub-section (1).

⁷ S. 7(4B): See note 6.

⁸ S. 15: Section 103 of the **Accident Compensation (Amendment) Act 1994**, No. 50/1994 reads as follows:

103. WorkCover Insurance Premiums Order 1993/94

- (1) This section applies for the purpose of calculating any adjusted premium payable—
 - (a) after a WorkCover insurance policy has been cancelled before 4 p.m. on 30 June 1994 and the relevant employer ceases to be an employer; or
 - (b) after a policy period has expired at 4.00 p.m. on 30 June 1994.
- (2) The WorkCover Insurance Premiums Order 1993/94 is to be construed as if it had been made with the following provisions included in the Order—
 - (a) after item 3(1)(h) of Schedule 3—
 - "(i) shall not include the cost of weekly payments of compensation or the cost of increased weekly payments of compensation made to a worker solely as the result of the invalidity of a notice issued under section 112 of the Act on and after 1 December 1992 by reason of the failure of the notice to comply with section 123A of the **Accident Compensation Act 1985**";
 - (b) after item 4(c) of Schedule 3—
 - "(d) claims for compensation under section 98 of the **Accident Compensation Act 1985** for loss of hearing which were given, served or lodged after 1 July 1991 if the total amount of compensation paid or payable in

Accident Compensation (WorkCover Insurance) Act 1993
Act No. 50/1993

respect of such claims is for a binaural
loss of hearing of less than 7 percent;"

⁹ S. 63: See note 2.