2013-2014

The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014

No. , 2014

(Employment)

A Bill for an Act to amend the Safety, Rehabilitation and Compensation Act 1988, and for other purposes
Contents

1  Short title .................................................................................................................. 1
2  Commencement.......................................................................................................... 1
3  Schedule(s) ................................................................................................................ 2

Schedule 1—National employers etc. 3

  Part 1—Amendments 3
    Safety, Rehabilitation and Compensation Act 1988 3
    Work Health and Safety Act 2011 5

  Part 2—Application provisions 7

Schedule 2—Group employer licences 8

  Part 1—Amendments 8
    Safety, Rehabilitation and Compensation Act 1988 8
    Work Health and Safety Act 2011 66

  Part 2—Transitional provisions 67

Schedule 3—Injury caused by misconduct 68

  Part 1—Amendments 68
    Safety, Rehabilitation and Compensation Act 1988 68

  Part 2—Application provisions 69

Schedule 4—Recess in employment 70

  Part 1—Amendments 70
    Safety, Rehabilitation and Compensation Act 1988 70

  Part 2—Application provisions 71

Schedule 5—Technical corrections 72

    Work Health and Safety Act 2011 72
A Bill for an Act to amend the Safety, Rehabilitation and Compensation Act 1988, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Safety, Rehabilitation and Compensation Legislation Amendment Act 2014.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
## Commencement information

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. Schedule 1</td>
<td>A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 2</td>
<td>Immediately after the commencement of Schedule 1 to this Act.</td>
<td></td>
</tr>
<tr>
<td>3. Schedules 3 and 4</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>4. Schedule 5</td>
<td>Immediately after the commencement of the <em>Work Health and Safety Act 2011</em>.</td>
<td>1 January 2012</td>
</tr>
</tbody>
</table>

1. Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

2. (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3. **3 Schedule(s)**

   Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—National employers etc.

Part 1—Amendments

Safety, Rehabilitation and Compensation Act 1988

1 Subsection 4(1) (definition of eligible corporation)
   Repeal the definition.

2 Paragraph 69(ee)
   Omit “eligible”.

3 Subsection 98A(1)
   Omit “Commonwealth authorities or eligible corporations”, substitute “corporations or Commonwealth authorities”.

4 Subsection 98A(3)
   Omit “an eligible”, substitute “a”.

5 Section 99
   Insert:

   Australian jurisdiction means:
   (a) a State; or
   (b) a Territory.

6 Section 99 (definition of eligible applicant)
   Repeal the definition.

7 Section 99 (definition of eligible corporation)
   Repeal the definition.

8 Section 99
   Insert:

   national employer has the meaning given by section 100.
workers’ compensation law means a law of an Australian jurisdiction relating to workers’ compensation.

9 Section 100

Repeal the section, substitute:

100 National employer

National employer

(1) For the purposes of this Part, a national employer is a corporation that has employer obligations in 2 or more Australian jurisdictions.

Employer obligations

(2) For the purposes of this section, a corporation has employer obligations in an Australian jurisdiction if the corporation:

(a) is; or
(b) apart from this Act, would be;
required to meet the obligations of an employer under a workers’ compensation law of the Australian jurisdiction to pay premiums, contributions or similar payments.

(3) For the purposes of this section, a corporation has employer obligations in an Australian jurisdiction if the corporation:

(a) is a self-insurer within the meaning of a workers’ compensation law of the Australian jurisdiction; or
(b) is a self-insured employer within the meaning of a workers’ compensation law of the Australian jurisdiction.

100A Commission may advise about matters that are relevant to the making of an application for a licence

The Commission may advise a body corporate about any of the following matters:

(a) whether the body corporate is a national employer;
(b) any other matter that is relevant to the making of an application for a licence.
10 Subsections 102(1), (2), (3) and (4)

Omit “eligible applicant” (wherever occurring), substitute “applicant”.

11 Subsections 103(1) and (2)

Omit “eligible applicant”, substitute “applicant”.

12 After subsection 104(2A)

Insert:

(2B) The Commission must not grant a licence to the applicant unless
the applicant is:
(a) a national employer; or
(b) a Commonwealth authority; or
(c) a corporation that was previously a Commonwealth
authority; or
(d) a corporation that held a licence immediately before the
commencement of this subsection.

13 Subsection 104(3)

Omit “does not consider it appropriate”, substitute “decides to refuse”.

14 Paragraph 108A(7)(a)

Omit “law of a State or Territory relating to workers compensation”,
substitute “workers’ compensation law”.

15 Subsection 108B(6)

Omit “an eligible corporation”, substitute “a corporation”.

Work Health and Safety Act 2011

16 Section 4 (definition of non-Commonwealth licensee)

Repeal the definition, substitute:

non-Commonwealth licensee means a body corporate that:
(a) holds a licence under Part VIII of the Safety, Rehabilitation
and Compensation Act 1988 (whether or not the licence is
suspended); and
Schedule 1 National employers etc.
Part 1 Amendments

1 (b) is not a Commonwealth authority within the meaning of that Act.

17 Subsection 12(4)
Omit “During the transitional period for a non-Commonwealth licensee, this Act”, substitute “This Act”.

18 Paragraph 12(4)(a)
Omit “if the non-Commonwealth licensee”, substitute “if a non-Commonwealth licensee”.

19 Paragraphs 12(4)(b) and (c)
Omit “the non-Commonwealth licensee”, substitute “a non-Commonwealth licensee”.

20 Subsection 12(5)
Omit “During the transitional period for a non-Commonwealth licensee, a corresponding WHS law”, substitute “A corresponding WHS law”.

21 Subsection 12(5)
Omit “the non-Commonwealth licensee”, substitute “a non-Commonwealth licensee”.

22 Subsection 12(6)
Repeal the subsection.
Part 2—Application provisions

23 Application of amendments

(1) The amendments of the Safety, Rehabilitation and Compensation Act 1988 made by this Schedule, so far as they concern an application made under section 102 of that Act, apply in relation to an application if the application was made after the commencement of this item.

(2) The amendments of the Safety, Rehabilitation and Compensation Act 1988 made by this Schedule, so far as they concern a decision to:
   (a) grant a licence under section 103 of that Act; or
   (b) refuse to grant such a licence;
apply in relation to such a decision if the application for the licence concerned was made after the commencement of this item.
Schedule 2—Group employer licences

Part 1—Amendments

Safety, Rehabilitation and Compensation Act 1988

1 Subsection 4(1)
   Insert:
   
   administration manager, for a group employer licence, means the corporation that is designated by the licence as the administration manager for the licence.

2 Subsection 4(1) (definition of corporation)
   Omit “, in Part VIII.”.

3 Subsection 4(1) (paragraph (d) of the definition of corporation)
   Omit “Territory;”, substitute “Territory.”

4 Subsection 4(1) (definition of corporation)
   Omit “but does not include a Commonwealth authority.”.

5 Subsection 4(1)
   Insert:
   
   group employer licence means a group employer licence issued under section 107D.

   legislative rules means rules made under section 122A.

6 Subsection 4(1) (definition of licence)
   Repeal the definition, substitute:
   
   licence means:
   
   (a) a single employer licence; or
   
   (b) a group employer licence.
7 Subsection 4(1)

Insert:

licence holder, in relation to a single employer licence, means the
holder of the licence.

8 Subsection 4(1) (definition of licensed authority)

Repeal the definition, substitute:

licensed authority means:
(a) a Commonwealth authority that is the holder of a single
employer licence; or
(b) a Commonwealth authority that is:
   (i) a corporation; and
   (ii) covered by a group employer licence.

9 Subsection 4(1) (definition of licensed corporation)

Repeal the definition, substitute:

licensed corporation means:
(a) a corporation that is the holder of a single employer licence;
or
(b) a corporation that is covered by a group employer licence.

10 Subsection 4(1) (definition of licensee)

Repeal the definition, substitute:

licensee means:
(a) a licensed corporation; or
(b) a licensed authority.

11 Subsection 4(1) (paragraph (a) of the definition of relevant
authority)

Omit “a licensee—the licensee; and”, substitute “the licence holder of a
single employer licence—the licence holder; or”.
12 Subsection 4(1) (after paragraph (a) of the definition of relevant authority)

Insert:

(aa) in relation to an employee who is employed by a corporation that is covered by a group employer licence—a corporation that is designated by the licence as a relevant authority for the licence; or

13 Subsection 4(1) (at the end of the definition of relevant authority)

Add:

Note: See also section 108L (relevant authority for a group employer licence).

14 Subsection 4(1)

Insert:

single employer licence means a licence granted under section 103.

15 Subsection 4(1) (paragraph (a) of the definition of suitable employment)

Omit “a licensee”, substitute “the licence holder of a single employer licence”.

16 Subsection 4(1) (paragraph (a) of the definition of suitable employment)

Omit “licensed corporation”, substitute “licence holder”.

17 Subsection 4(1) (at the end of subparagraphs (a)(i) and (ii) of the definition of suitable employment)

Add “and”.

18 Subsection 4(1) (subparagraph (a)(iv) of the definition of suitable employment)

Omit “; and”, substitute “; or”.
19 **Subsection 4(1) (after paragraph (a) of the definition of suitable employment)**

Insert:

(aa) in the case of an employee who:

(i) on the day on which he or she was injured, was a permanent employee of a corporation covered by a group employer licence; and

(ii) continues to be so employed; employment, by any corporation covered by the licence, in work for which the employee is suited having regard to the matters specified in subparagraphs (a)(i), (ii), (iii) and (iv); or

20 **Subsection 4(1)**

Insert:

*working day* means a day that is not:

(a) a Saturday; or

(b) a Sunday; or

(c) a public holiday in any State or Territory.

21 **At the end of section 11**

Add:

Note: See also sections 108J and 108K (relevant authority for a group employer licence).

22 **Paragraph 41A(1)(b)**

Omit “in respect of which a licence is not in force under Part VIII”, substitute “that is not a licensee”.

23 **After subsection 41A(1)**

Insert:

(1A) If:

(a) a rehabilitation authority is the principal officer of a licensed corporation; and

(b) the corporation is covered by a group employer licence; the rehabilitation authority may, in writing, delegate to an officer of, or a person employed by, any other corporation covered by the

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Note: 2014 Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014
Schedule 2  Group employer licences

Part 1  Amendments

  licence all or any of the powers and functions of the rehabilitation
  authority under this Part.

24  At the end of subsection 62(2)

  Add:
  ; or (d) if the determining authority is a relevant authority for a group
  employer licence—a corporation covered by the licence.

25  Subsection 62(2A)

  Before “licence”, insert “single employer”.

26  After subsection 62(2A)

  Insert:

  (2B) If a determining authority is covered by a group employer licence
  that is subject to conditions requiring the determining authority to
  arrange for the reconsideration by another person of any
  determination made by the determining authority, nothing in
  subsection (1) or (2) derogates from that requirement.

27  Paragraph 64(1)(d)

  Omit “corporation that holds a licence under Part VIII”, substitute
  “licensed corporation”.

28  Paragraph 67(1A)(a)

  Omit “; and”, substitute “; or”.

29  Paragraph 67(1A)(b)

  Before “licence”, insert “single employer”.

30  Paragraph 67(1A)(b)

  Omit “; and”, substitute “; or”.

31  Paragraph 67(1A)(c)

  Before “licence” (first occurring), insert “single employer”.

32  At the end of subsection 67(1A)

  Add:
; or (d) if:

(i) the determination affected a Commonwealth authority
    that is covered by a group employer licence; and
(ii) the licence does not authorise acceptance of liability for
    claims in respect of which the determination is made;

Comcare; or

(e) if:

(i) the determination affected a corporation that is covered
    by a group employer licence; and
(ii) the licence authorises acceptance of liability for claims
    in respect of which the determination is made;

a relevant authority for the licence.

33 At the end of paragraph 69(fb)

Add “or the legislative rules”.

34 After paragraph 89B(b)

Insert:

(ba) such other functions as are conferred on the Commission by

the regulations or the legislative rules;

35 Subsection 97A(3) (paragraph (a) of the definition of

estimated liability component)

Omit “does not hold a licence in force under Part VIII”, substitute “is

not a licensee”.

36 Subsection 97A(3) (paragraph (b) of the definition of

estimated liability component)

Omit “such a licence”, substitute “a single employer licence”.

37 Subsection 97A(3) (at the end of paragraph (b) of the

definition of estimated liability component)

Add “and”.

38 Subsection 97A(3) (after paragraph (b) of the definition of

estimated liability component)

Insert:
Schedule 2  Group employer licences

Part 1  Amendments

(c) in the case of an authority that is covered by a group employer licence at the commencement of that financial year—by employees of the authority in respect of whom a relevant authority for the licence is not authorised to accept liability;

39 Subsection 97A(3) (paragraph (a) of the definition of estimated management component)

Omit “does not hold a licence under Part VIII”, substitute “is not a licensee”.

40 Subsection 97A(3) (paragraph (b) of the definition of estimated management component)

Omit “such a licence”, substitute “a single employer licence”.

41 Subsection 97A(3) (at the end of paragraph (b) of the definition of estimated management component)

Add “and”.

42 Subsection 97A(3) (after paragraph (b) of the definition of estimated management component)

Insert:

(c) in the case of an authority that is covered by a group employer licence at the commencement of that financial year—by employees of the authority in respect of whom a relevant authority for the licence is not authorised to manage claims;

43 Subsection 97D(1)

Omit “holds a licence under Part VIII”, substitute “is a licensee”.

44 Paragraph 97D(2)(b)

Omit “does not hold a licence in force under Part VIII”, substitute “is not a licensee”.

45 Subsection 97E(2)

Omit “hold a licence under Part VIII”, substitute “are licensees”.

14 Safety, Rehabilitation and Compensation Legislation Amendment Bill No. 1, 2014
46 Subparagraphs 97M(1)(e)(i) and (ii)

Before “licence”, insert “single employer”.

47 At the end of subsection 97M(1)

Add:

; or (f) in the case of a Commonwealth authority:

(i) the Commonwealth authority is, or is to be, covered by

a group employer licence; or

(ii) a group employer licence that covers the

Commonwealth authority is, or is to be, revoked; or

(iii) a group employer licence has ceased to cover, or is to

cease to cover, the Commonwealth authority.

48 Part VIII (heading)

Repeal the heading, substitute:

Part VIII—Licences to enable corporations and
Commonwealth authorities to accept
liability and manage claims

49 Section 98A

Repeal the section, substitute:

98A Simplified outline of this Part

- The Commission may:
  (a) grant single employer licences to corporations or
      Commonwealth authorities; and
  (b) issue group employer licences that cover corporations
      that belong to a corporate group.

- If a single employer licence is held by a corporation, this Act
  applies in relation to some or all of the employees of the
  corporation in a similar way to the way in which it applies to
  employees of the Commonwealth, but the application is
  subject to:
(a) the acceptance by the corporation of the whole or a part of the liability under this Act for payments in respect of injury, loss or damage suffered by, or the death of, those employees; and

(b) the acceptance by the corporation of the function of managing claims under this Act in respect of that injury, loss, damage or death.

• If a single employer licence is held by a Commonwealth authority, this Act continues to apply in relation to employees of the authority, but, depending on the scope of the licence, the application of this Act is subject to either or both of the following:

(a) the acceptance by the authority of the whole or a part of the liability under this Act for payments in respect of injury, loss or damage suffered by, or the death of, some or all of its employees;

(b) the acceptance by the authority of the responsibility for managing certain claims under this Act in respect of injury, loss or damage suffered by, or the death of, some or all of its employees.

• If a group employer licence covers corporations that belong to a corporate group, this Act applies in relation to some or all of the employees of those corporations in a similar way to the way in which it applies to employees of the Commonwealth, but the application is subject to:

(a) the acceptance by a relevant authority of the whole or a part of the liability under this Act for payments in respect of injury, loss or damage suffered by, or the death of, those employees; and

(b) those corporations being jointly and severally liable to make payments under this Act in respect of that injury, loss, damage or death; and

(c) the acceptance by a relevant authority of the function of managing claims under this Act in respect of that injury, loss, damage or death.
• If a licence is granted or issued, the application of this Act is also subject to the conditions to which the licence is subject.

50 Section 99

Insert:

*corporate group* means a group of 2 or more bodies corporate, where each body corporate in the group is a related body corporate of each other body corporate in the group.

*covered corporation*, in relation to a group employer licence, means a corporation that is covered by the licence.

*key body corporate* for a group employer licence, means the body corporate that is designated by the licence as the key body corporate for the licence.

*national employer group* has the meaning given by section 100.

*related body corporate* has the same meaning as in the *Corporations Act 2001*.

51 Section 100 (heading)

Repeal the heading, substitute:

100 National employer and national employer group

52 After subsection 100(1)

Insert:

National employer group

(1A) For the purposes of this Part, a corporate group is a *national employer group* if at least one corporation in the group is a national employer.

(1B) For the purposes of this Part, a corporate group is a *national employer group* if:

(a) at least one corporation in the group has employer obligations in a particular Australian jurisdiction; and
Schedule 2  Group employer licences
Part 1  Amendments

(b) at least one other corporation in the group has employer
obligations in another Australian jurisdiction.

53 Section 100A (heading)
Repeal the heading, substitute:

100A Commission may advise about matters that are relevant to the
making of an application for a licence etc.

54 Paragraph 100A(b)
Repeal the paragraph, substitute:
(b) whether the body corporate is a member of a national
employer group;
(c) any other matter that is relevant to:
(i) the making of an application for a licence; or
(ii) the making of an application for the variation of a
licence.

55 Before subsection 101(1)
Insert:

Single employer licences

56 Subsection 101(1)
Before “licences” (first occurring), insert “single employer”.

57 Paragraph 101(1)(a)
Omit “such”, substitute “single employer”.

58 Paragraph 101(1)(b)
Before “licences” (wherever occurring), insert “single employer”.

59 Paragraphs 101(1)(c), (d), (e) and (f)
Omit “such” (wherever occurring), substitute “single employer”.

60 Subsection 101(1) (note)
Before “licence” (first occurring), insert “single employer”.

18 Safety, Rehabilitation and Compensation Legislation Amendment Bill No. 2014
2014
61 Subsection 101(1) (note)

After “granted”, insert “or issued,”.

62 After subsection 101(1)

Insert:

*Group employer licences*

(1A) The Minister’s power to give directions to the Commission under section 89D extends to directions concerning any matter relating to the issue of group employer licences under this Part. Without limiting the matters the directions may deal with, the Minister may give directions concerning:

(a) criteria and procedures for the issue of group employer licences; or

(b) the scope of group employer licences and the conditions to which group employer licences having a particular scope may be expressed to be subject; or

(c) the exercise by the Commission of the power to vary the conditions to which group employer licences are subject; or

(d) criteria and procedures for the extension, suspension or revocation of group employer licences or for varying the scope of group employer licences; or

(e) publication of notices about any issue, extension, suspension or revocation of group employer licences or for varying the scope of group employer licences or the conditions to which they are subject; or

(f) requirements to be observed by the Commission in relation to the keeping of records, and the periodic reporting of particulars, in relation to group employer licences.

Note: Criteria for the issue of a group employer licence may address matters relating not only to the licence applied for, but also to other licences that have been issued or granted, or that are being sought.

63 Before subsection 101(2)

Insert:
64 Before section 102
   Insert:

   **Subdivision A—Single employer licences**

65 Section 102 (heading)
   Repeal the heading, substitute:

102 Application for grant of a single employer licence

66 Subsection 102(1)
   Before “licence” (first occurring), insert “single employer”.

67 Paragraph 102(1)(a)
   Omit “prescribed form”, substitute “form prescribed by the regulations or the legislative rules”.

68 Paragraphs 102(1)(b) and (c)
   After “regulations”, insert “or legislative rules”.

69 Section 103 (heading)
   Repeal the heading, substitute:

103 Grant of single employer licence

70 Subsection 103(1)
   Before “licence”, insert “single employer”.

71 Subsection 103(2)
   Before “licence” (first occurring), insert “single employer”.

72 Paragraphs 103(2)(a) and (b)
   Omit “licensee”, substitute “licence holder”.

20 Safety, Rehabilitation and Compensation Legislation Amendment Bill No. , 2014
2014
73 Paragraph 104(1)(a)
   After “it”, insert “under section 102”.

74 Subsection 104(1)
   After “may”, insert “, under section 103, ”.

75 Subsection 104(1)
   Before “licence” (wherever occurring), insert “single employer”.

76 Subsection 104(2)
   Before “licence” (first occurring), insert “single employer”.

77 Paragraph 104(2)(b)
   Omit “licensee”, substitute “licence holder”.

78 Paragraph 104(2)(b)
   Omit “licensee’s”, substitute “licence holder’s”.

79 Paragraph 104(2)(c)
   Omit “licensee”, substitute “licence holder”.

80 Subsection 104(2A)
   Before “licence”, insert “single employer”.

81 Subsection 104(2B)
   Before “licence” (first occurring), insert “single employer”.

82 Subsections 104(3) and (4)
   Before “licence” (wherever occurring), insert “single employer”.

83 Subsection 104A(1)
   Omit “At the date of commencement of a licence, and at each 1 July
   after that date, while the licence is in force, the licensee”, substitute “On
   each 1 July while a single employer licence is in force, the licence
   holder”.

No. 2014 Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014
**Schedule 2**  Group employer licences

**Part 1**  Amendments

84 **Subsections 104A(2) and (4)**

Omit “licensee” (wherever occurring), substitute “licence holder”.

85 **Section 105 (heading)**

Repeal the heading, substitute:

105 Commission may vary the scope of a single employer licence or extend its term

86 **Subsection 105(1)**

Before “licence” (first occurring), insert “single employer”.

87 **Subsection 105(1)**

Omit “licensee”, substitute “licence holder”.

88 **Subsection 105(2)**

Before “licence” (wherever occurring), insert “single employer”.

89 **Section 106 (heading)**

Repeal the heading, substitute:

106 Suspension or revocation of a single employer licence at the instance of the Commission

90 **Subsection 106(1)**

Omit “licensee”, substitute “licence holder of a single employer licence”.

91 **Subsection 106(2)**

Before “licence”, insert “single employer”.

92 **Section 107 (heading)**

Repeal the heading, substitute:
107 Revocation of a single employer licence at request of licence holder

93 Section 107
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

94 Section 107
Omit “the licensee” (first occurring), substitute “the licence holder”.

95 Section 107
Omit “held by the licensee”.

96 Section 107A
After “regulations”, insert “or legislative rules”.

97 Paragraphs 107A(a) and (b)
Before “licence”, insert “single employer”.

98 At the end of Division 2 of Part VIII
Add:

Subdivision B—Group employer licences

107B Application for group employer licence

(1) A corporation may apply to the Commission for the issue of a group employer licence.

(2) The application must propose that 2 or more specified corporations be covered by the licence.

Note: The licence will not be issued unless the covered corporations are members of a corporate group (see section 107D).

(3) The applicant must be one of the proposed covered corporations.

Form of application

(4) The application must:
Schedule 2 Group employer licences
Part 1 Amendments

(a) be in writing; and
(b) be in a form approved, in writing, by the Commission; and
(c) be accompanied by such information as is specified in the legislative rules; and
(d) be accompanied by such documents as are specified in the legislative rules; and
(e) be accompanied by the written consent of each of the proposed covered corporations to be covered by the licence.

Administration manager

(5) The application must:
   (a) nominate one of the proposed covered corporations to be the administration manager for the licence; and
   (b) be accompanied by the written consent of the nominee to be nominated as the administration manager for the licence.

(6) The nominated corporation may be the applicant.

Relevant authority

(7) The application must nominate:
   (a) one of the proposed covered corporations to be a relevant authority for the licence; or
   (b) each of 2 or more proposed covered corporations to be a relevant authority for the licence.

(8) A nominated corporation may be the applicant.

Key body corporate

(9) The application must nominate a body corporate to be the key body corporate for the licence.

Note: To remain covered by the licence, a corporation must be a related body corporate of the key body corporate (see section 107Q).

(10) The nominated body corporate may be:
   (a) the applicant; or
   (b) one of the other proposed covered corporations; or
   (c) another body corporate.
Example: The head company of a corporate group may be a holding company whose sole purpose is to hold shares in the proposed covered corporations. The holding company is not a corporation (within the meaning of this Act). The application may nominate the holding company to be the key body corporate for the licence.

Application fee

(11) The proposed covered corporations are jointly and severally liable to pay to Comcare, in respect of the application, an application fee equal to the amount estimated by the Commission to be the cost of considering the application.

(12) The Commission must give written notice to the applicant of the amount of the application fee, and:

(a) if the notice is given before the application is made—the application fee is to accompany the application; or

(b) otherwise—the application fee is to be paid as soon as practicable after the notice is given.

107C Withdrawal of application

(1) An applicant for a group employer licence may withdraw the application at any time before a decision is made on the application.

(2) If the application is withdrawn after receipt by Comcare of the application fee, the Commission may, depending on the extent to which it has already considered the application:

(a) request Comcare to refund the application fee entirely; or

(b) reduce the application fee by such amount as it considers reasonable having regard to the extent of that consideration, and request Comcare to refund the amount of the reduction.

(3) For the purposes of subsection (2), the reference to the extent of the Commission’s consideration of an application includes a reference to any act or thing done by Comcare to assist the Commission in that consideration.
107D Issue of group employer licence

Scope

(1) This section applies if an application under section 107B has been made for the issue of a group employer licence.

Issue of licence

(2) After considering:

(a) the application; and

(b) any further information that is provided to the Commission by the applicant for the purpose of enabling consideration of the application; and

(c) any other matter that the Commission considers relevant;

the Commission may, by written instrument, issue a group employer licence that:

(d) is expressed to cover the corporations identified in the licence as covered corporations; and

(e) designates one of those corporations as the administration manager for the licence; and

(f) either:

(i) designates one of those corporations as a relevant authority for the licence; or

(ii) designates each of 2 or more of those corporations as a relevant authority for the licence; and

(g) designates a body corporate as the key body corporate for the licence.

Criteria for issue of licence

(3) The Commission must not issue a group employer licence unless the Commission is satisfied that it is appropriate to do so.

(4) In order for the Commission to be satisfied, for the purposes of subsection (3), that it is appropriate to issue a group employer licence, the Commission must be satisfied that:

Note 1: For coverage, see section 107F.

Note 2: To remain covered by the licence, a corporation must be a related body corporate of the key body corporate (see section 107Q).
(a) assuming that the covered corporations were a single body corporate, that body corporate would have sufficient resources to fulfil the responsibilities imposed on those corporations as a result of being covered by the licence; and

(b) each nominated relevant authority has the capacity to ensure (where the scope of the licence so provides) that claims that are to be managed either:

(i) by the nominated relevant authority; or

(ii) by another person identified in the licence on the nominated relevant authority’s behalf;

will be managed in accordance with standards set by the Commission for the management of claims; and

(c) the issue of the licence will not be contrary to the interests of the employees of a covered corporation whose affairs fall within the scope of the licence; and

(d) each covered corporation has the capacity to meet the standards set by the Commission for the rehabilitation of the corporation’s employees; and

(e) each covered corporation has the capacity to meet the standards set by the Commission for the occupational health and safety of the corporation’s employees.

(5) The Commission must not issue a group employer licence if:

(a) because of the past conduct of a proposed covered corporation (including the corporation’s performance in meeting obligations in relation to rehabilitation under the law of the Commonwealth or of a State or Territory), the Commission is satisfied that it is unlikely that the corporation will, if the licence is issued, meet the standards set by the Commission for the rehabilitation of the corporation’s employees; or

(b) because of the past conduct of a nominated relevant authority (including the nominated relevant authority’s performance in meeting obligations in relation to claims management under the law of the Commonwealth or of a State or Territory), the Commission is satisfied that it is unlikely that the nominated relevant authority will, if the licence is issued, manage claims in accordance with the standards set by the Commission.

(6) The Commission must not issue a group employer licence unless:
Schedule 2  Group employer licences
Part 1  Amendments

(a) each corporation covered by the licence is a member of a particular corporate group; and
(b) each body corporate in the group is a related body corporate of the key body corporate for the licence; and
(c) the group is a national employer group; and
(d) each corporation covered by the licence is incorporated in Australia.

(7) The Commission may refuse to issue a group employer licence if, because of the past conduct of a proposed covered corporation (including the corporation’s performance in complying with the law of the Commonwealth or of a State or Territory dealing with occupational health and safety), the Commission is satisfied that it is unlikely that the corporation will, if the licence is issued, meet the standards set by the Commission for the occupational health and safety of the corporation’s employees.

Notification of issue of licence

(8) If the Commission decides to issue a group employer licence, the Commission must give written notice of the decision to the applicant.

Refusal

(9) If the Commission decides to refuse to issue a group employer licence, the Commission must give written notice of the decision, and the reasons for the decision, to the applicant.

(10) Subsection (9) does not prevent the Commission, with the written consent of each of the proposed covered corporations, from issuing a group employer licence having a different scope to the licence sought by the applicant.

107E Duration of group employer licence

(1) A group employer licence:
(a) comes into force at the start of the day specified in the licence (which must be later than the day on which the licence is issued); and
(b) remains in force for the period specified in the licence.
(2) Subsection (1) has effect subject to sections 107W, 107X and 107Y (which deal with the extension, suspension and revocation of group employer licences).

107F Coverage of group employer licence

(1) If an application for a group employer licence proposes that a corporation be covered by the licence, the corporation must be covered by the licence.

Exclusion of corporation

(2) Subsection (1) does not apply to a corporation if:

(a) assuming that the corporation had applied for a single employer licence, the Commission would have refused to grant that licence to the corporation on the grounds that the Commission was not satisfied as to a matter set out in:

(i) a paragraph of subsection 104(2); or

(ii) a paragraph of subsection 104(2A); and

(b) the Commission decides that the licence should not cover the corporation.

(3) If:

(a) an application for a group employer licence proposes that a corporation be covered by the licence; and

(b) the Commission proposes to:

(i) issue the licence; and

(ii) decide that the licence should not cover one or more corporations (the excluded corporations);

then:

(c) the Commission must give a written notice to the applicant:

(i) setting out the proposal; and

(ii) stating that, unless the proposed covered corporations (other than the excluded corporations) inform the Commission, within 5 working days after the receipt of the notice, that they agree that the licence should not cover the excluded corporations, the Commission will refuse to issue the licence; and
Schedule 2  Group employer licences

Part 1  Amendments

(d) the Commission must not issue the licence unless the
proposed covered corporations (other than the excluded
corporations) have informed the Commission, within 5
working days after the receipt of the notice, that they agree
that the licence should not cover the excluded corporations.

(4) If:
(a) an application for a group employer licence proposes that a
corporation be covered by the licence; and
(b) the Commission issues the licence, but decides that the
licence should not cover the corporation;
the Commission must give written notice of the decision, and the
reasons for the decision, to the applicant.

Variation

(5) Subsection (1) does not apply if:
(a) a corporation becomes covered by a group employer licence
as a result of the variation of the licence; or
(b) a corporation ceases to be covered by a group employer
licence as a result of the variation of the licence; or
(c) a corporation ceases to be covered by a group employer
licence because the corporation ceases to be a related body
corporate of the key body corporate (see section 107Q).

107G  Administration manager

(1) If:
(a) an application for a group employer licence nominates a
corporation to be the administration manager for the licence;
and
(b) the Commission issues the licence;
the licence must designate the corporation as the administration
manager for the licence.

(2) The Commission may refuse to issue a group employer licence if
the Commission is satisfied that it is not appropriate for the
nominated administration manager to become the administration
manager for the licence.
(3) If the Commission proposes to refuse to issue a group employer licence on the grounds that the Commission is satisfied that it is not appropriate for the nominated administration manager (the original nominee) to become the administration manager for the licence:

(a) the Commission must, by written notice given to the applicant:
   (i) inform the applicant of the proposed refusal; and
   (ii) invite the applicant to amend the application, within 5 working days after receipt of the notice, so that the application nominates another proposed covered corporation to be the administration manager for the licence, instead of the original nominee; and

(b) if:
   (i) the application is so amended; and
   (ii) the nominee consents, in writing, to the nomination;
the Commission must proceed to consider the amended application.

Variation

(4) Subsection (1) does not apply if:

(a) a corporation becomes the administration manager for a group employer licence as a result of the variation of the licence; or

(b) a corporation ceases to be the administration manager for a group employer licence as a result of the variation of the licence; or

(c) a corporation ceases to be covered by a group employer licence because the corporation ceases to be a related body corporate of the key body corporate (see section 107Q).

107H Relevant authority

(1) If:

(a) an application for a group employer licence nominates a corporation to be a relevant authority for the licence; and

(b) the Commission issues the licence;
the licence must designate the corporation as a relevant authority for the licence.
(2) The Commission may refuse to issue a group employer licence if the Commission is satisfied that it is not appropriate for a nominated relevant authority to become a relevant authority for the licence.

(3) If the Commission proposes to refuse to issue a group employer licence on the grounds that the Commission is satisfied that it is not appropriate for a nominated relevant authority (the original nominee) to become a relevant authority for the licence:
   (a) the Commission must, by written notice given to the applicant:
       (i) inform the applicant of the proposed refusal; and
       (ii) invite the applicant to amend the application, within 5 working days after receipt of the notice, so that the application nominates another proposed covered corporation to be a relevant authority for the licence, instead of the original nominee; and
   (b) if the application is so amended—the Commission must proceed to consider the amended application.

Variation

(4) Subsection (1) does not apply if:
   (a) a corporation becomes a relevant authority for a group employer licence as a result of the variation of the licence; or
   (b) a corporation ceases to be a relevant authority for a group employer licence as a result of the variation of the licence; or
   (c) a corporation ceases to be covered by a group employer licence because the corporation ceases to be a related body corporate of the key body corporate (see section 107Q).

107J Key body corporate

If:
   (a) an application for a group employer licence nominates a body corporate to be the key body corporate for the licence; and
   (b) the Commission issues the licence;
the licence must designate the body corporate as the key body corporate for the licence.
107K Corporation may have multiple roles

A corporation may be 2 or more of the following for a particular group employer licence:
(a) the administration manager for the licence;
(b) a relevant authority for the licence;
(b) the key body corporate for the licence.

107L Scope and conditions of group employer licence

If the Commission issues a group employer licence, the Commission must determine:
(a) in accordance with Division 3—the scope of the licence so far as concerns the degree to which, and the circumstances in which, a relevant authority may accept liability for compensation; and
(b) in accordance with Division 4—the scope of the licence so far as concerns the degree to which, and the circumstances in which, a relevant authority is authorised to manage claims; and
(c) in accordance with Division 5—the conditions (if any) to which the licence is subject.

107M Group employer licence is not held

A group employer licence is not held by:
(a) the applicant for the licence; or
(b) any other person or persons.

107N Licence fees

(1) If a corporation is covered by a group employer licence throughout a period (the relevant period) that consists of:
(a) the whole of a financial year; or
(b) a part of a financial year;
the corporation is liable, on 1 July next following that financial year, to pay a licence fee in respect of being covered by the licence throughout the relevant period.
Schedule 2  Group employer licences

Part 1  Amendments

(2) The amount of the licence fee is the amount the Commission notifies in writing to the administration manager for the licence. The amount notified must be the amount estimated by the Commission to represent:

(a) that part of the cost incurred by the Commission and by Comcare in carrying out their respective functions under this Act (other than the function referred to in paragraph 69(ec)) during the relevant period that is reasonably referrable to the corporation; and

(b) that part of the cost incurred (if any) by the Commission and by Comcare in carrying out their respective functions under:

(i) the Work Health and Safety Act 2011; and

(ii) the Work Health and Safety (Transitional and Consequential Provisions) Act 2011;
during the relevant period that is reasonably referrable to the corporation.

(3) The fee is payable to Comcare within such period after it is notified to the administration manager as the Commission determines.

107P Variation of group employer licence—corporation becomes covered by licence

(1) If a group employer licence is in force, the administration manager may apply to the Commission for a specified corporation to be covered by the licence.

Form of application

(2) The application must:

(a) be in writing; and

(b) be in a form approved, in writing, by the Commission; and

(c) be accompanied by such information as is specified in the legislative rules; and

(d) be accompanied by such documents as are specified in the legislative rules; and

(e) be accompanied by the written consent of the specified corporation to being covered by the licence; and
(f) be accompanied by the written consent of each of the existing
covered corporations to the specified corporation being
covered by the licence.

Application fee

(3) The administration manager is liable to pay to Comcare, in respect
of the application, an application fee equal to the amount estimated
by the Commission to be the cost of considering the application.

(4) The Commission must give written notice to the administration
manager of the amount of the application fee, and:
   (a) if the notice is given before the application is made—the
       application fee is to accompany the application; or
   (b) otherwise—the application fee is to be paid as soon as
       practicable after the notice is given.

Withdrawal of application

(5) The applicant may withdraw the application at any time before a
decision is made on the application.

(6) If the application is withdrawn after receipt by Comcare of the
application fee, the Commission may, depending on the extent to
which it has already considered the application:
   (a) request Comcare to refund the application fee entirely; or
   (b) reduce the application fee by such amount as it considers
       reasonable having regard to the extent of that consideration,
       and request Comcare to refund the amount of the reduction.

(7) For the purposes of subsection (6), the reference to the extent of
the Commission’s consideration of an application includes a
reference to any act or thing done by Comcare to assist the
Commission in that consideration.

Variation of licence

(8) After considering:
   (a) the application; and
(b) any further information that is provided to the Commission by the applicant for the purpose of enabling consideration of the application; and
(c) any other matter that the Commission considers relevant; the Commission may, by written notice given to the administration manager, vary the group employer licence so that the corporations identified in the licence as covered corporations include the specified corporation.

Criteria for variation of licence

(9) The Commission must not vary the group employer licence unless the Commission is satisfied that:
(a) the specified corporation is a related body corporate of the key body corporate for the licence; and
(b) assuming that:
   (i) the licence did not exist; and
   (ii) paragraph 107D(6)(c) had not been enacted; and
   (iii) an application were to be made for a new group employer licence that is expressed to cover the specified corporation and the existing covered corporations;
          the Commission would have issued the new group employer licence.

Notification of variation of licence

(10) If the Commission decides to vary the group employer licence, the Commission must give written notice of the decision to:
   (a) the specified corporation; and
   (b) the administration manager.

Refusal

(11) If the Commission decides to refuse to vary the group employer licence, the Commission must give written notice of the decision, and the reasons for the decision, to:
   (a) the specified corporation; and
   (b) the administration manager.
107Q Variation of group employer licence—covered corporation leaves corporate group

Covered corporation is not the administration manager

(1) If:

(a) a group employer licence is in force; and
(b) a covered corporation (the *departing corporation*) ceases to be a related body corporate of the key body corporate; and
(c) the departing corporation is not the administration manager; then:

(d) the licence ceases to cover the departing corporation; and
(e) if the departing corporation is a relevant authority for the licence—the departing corporation’s designation as a relevant authority for the licence is terminated; and
(f) the Commission must:
   (i) by written notice given to the administration manager, vary the licence by removing the name of the departing corporation from the licence; and
   (ii) do so as soon as practicable after becoming aware of the cessation; and
(g) the Commission must give a copy of the notice to the departing corporation.

Covered corporation is the administration manager

(2) If:

(a) a group employer licence is in force; and
(b) a covered corporation (the *departing corporation*) ceases to be a related body corporate of the key body corporate; and
(c) the departing corporation is the administration manager; then:

(d) the licence ceases to cover the departing corporation; and
(e) the departing corporation’s designation as the administration manager for the licence is terminated; and
(f) if the departing corporation is a relevant authority for the licence—the departing corporation’s designation as a relevant authority for the licence is terminated; and
Schedule 2  Group employer licences
Part 1  Amendments

(g) the Commission must:
   (i) by written notice given to each of the remaining covered corporations, vary the licence by removing the name of the departing corporation from the licence; and
   (ii) do so as soon as practicable after becoming aware of the cessation; and
   (h) the Commission must give a copy of the notice to the departing corporation.

Note:  See section 107T in relation to nominating a new administration manager.

Consequences of cessation

(3) The legislative rules may provide for the consequences of a cessation mentioned in paragraph (1)(d) or (2)(d).

(4) Legislative rules made for the purposes of subsection (3) may empower the Commission to vary a group employer licence so that it does not authorise the acceptance of specified liabilities.

(5) Legislative rules made for the purposes of subsection (3) may empower the Commission to vary a group employer licence so that it does not authorise the management of claims in respect of specified liabilities.

(6) Subsections (4) and (5) do not limit subsection (3).

107R  Variation of group employer licence—voluntary removal of covered corporation

Covered corporation is not the administration manager

(1) If:
   (a) a group employer licence is in force; and
   (b) a covered corporation (the departing corporation) requests the Commission, in writing, to remove the departing corporation’s name from the licence; and
   (c) the departing corporation is not the key body corporate; and
   (d) the departing corporation is not the administration manager; and
(e) the other covered corporations have consented, in writing, to
the making of the request; and
(f) the conditions set out in the legislative rules are satisfied;
then:
(g) the Commission may, by written notice given to the
administration manager, vary the licence by removing the
departing corporation’s name; and
(h) on the removal of the departing corporation’s name:
   (i) the licence ceases to cover the departing corporation;
and
   (ii) if the departing corporation is a relevant authority for
   the licence—the departing corporation’s designation as
   a relevant authority for the licence is terminated; and
   (i) the Commission must give a copy of the notice of variation to
   the departing corporation.

(2) A request under paragraph (1)(b) must be accompanied by such
information as is specified in the legislative rules.

Covered corporation is the administration manager

(3) If:
   (a) a group employer licence is in force; and
   (b) the administration manager (the departing administration
       manager) requests the Commission, in writing, to:
       (i) remove the departing administration manager’s name
           from the licence; and
       (ii) terminate the departing administration manager’s
            designation as the administration manager; and
       (iii) designate another corporation covered by the licence
            (the new administration manager) as the administration
            manager; and
   (c) the covered corporations have consented, in writing, to the
       making of the request; and
   (d) the departing administration manager is not the key body
       corporate; and
   (e) the conditions set out in the legislative rules are satisfied;
then:
Schedule 2 Group employer licences

Part 1 Amendments

(f) the Commission may, by written notice given to the new administration manager, vary the licence so as to:

(i) remove the departing administration manager’s name; and

(ii) designate the new administration manager as the administration manager for the licence; and

(g) on the removal of the departing administration manager’s name:

(i) the licence ceases to cover the departing corporation; and

(ii) the departing administration manager’s designation as the administration manager for the licence is terminated; and

(iii) if the departing administration manager is a relevant authority for the licence—the departing administration manager’s designation as a relevant authority for the licence is terminated; and

(h) the Commission must give a copy of the notice to the departing administration manager.

(4) A request under paragraph (3)(b) must be accompanied by such information as is specified in the legislative rules.

Consequences of cessation

(5) The legislative rules may provide for the consequences of a cessation mentioned in subparagraph (1)(h)(i) or (3)(g)(i).

(6) Legislative rules made for the purposes of subsection (5) may empower the Commission to vary a group employer licence so that it does not authorise the acceptance of specified liabilities.

(7) Legislative rules made for the purposes of subsection (5) may empower the Commission to vary a group employer licence so that it does not authorise the management of claims in respect of specified liabilities.

(8) Subsections (6) and (7) do not limit subsection (5).
107S Variation of group employer licence—expulsion of covered corporation

(1) If:

(a) a group employer licence is in force; and

(b) the Commission considers that it is appropriate to remove the name of a covered corporation (the departing corporation) from the licence; and

(c) the departing corporation is not the key body corporate; and

(d) the departing corporation is not the administration manager; and

(e) the conditions set out in the legislative rules are satisfied; then:

(f) the Commission may, by written notice given to the administration manager, vary the licence by removing the departing corporation’s name; and

(g) if the Commission does so, the Commission must give a copy of the notice to the departing corporation; and

(h) on the removal of the departing corporation’s name, the licence ceases to cover the departing corporation.

Consequences of cessation

(2) The legislative rules may provide for the consequences of a cessation mentioned in paragraph (1)(h).

(3) Legislative rules made for the purposes of subsection (2) may empower the Commission to vary a group employer licence so that it does not authorise the acceptance of specified liabilities.

(4) Legislative rules made for the purposes of subsection (2) may empower the Commission to vary a group employer licence so that it does not authorise the management of claims in respect of specified liabilities.

(5) Subsections (3) and (4) do not limit subsection (2).
107T Variation of group employer licence—new administration manager

Requested change of administration manager

(1) If:
(a) a group employer licence is in force; and
(b) the corporation designated in the licence as the administration manager requests the Commission, in writing, to:
   (i) terminate the corporation’s designation as the administration manager; and
   (ii) designate another corporation covered by the licence as the administration manager for the licence; and
(c) the covered corporations have consented, in writing, to the making of the request; and
(d) the conditions set out in the legislative rules are satisfied;
the Commission may, by written notice given to:
   (e) the corporation designated in the licence as the administration manager; and
   (f) the other corporation;
   vary the licence so that it designates the other corporation as the administration manager.

Administration manager leaves corporate group

(2) If:
(a) a group employer licence is in force; and
(b) a covered corporation (the departing corporation) ceases to be a related body corporate of the key body corporate; and
(c) the departing corporation is the administration manager; and
(d) the departing corporation ceases to be covered by the licence as a result of subsection 107Q(2);
the remaining covered corporations must:
   (e) give a written notice to the Commission that nominates one of the remaining covered corporations to be the administration manager for the licence; and
(f) do so within 5 working days after becoming aware of the cessation.

(3) If the Commission is given a nomination under subsection (2), the Commission may, by written notice to the remaining covered corporations, vary the licence so that it designates the nominated corporation as the administration manager.

(4) The Commission may refuse to vary the licence if the Commission is satisfied that it is not appropriate for the nominated corporation to become the administration manager for the licence.

(5) If the Commission decides to refuse to vary the licence, the Commission must give written notice of the decision to the covered corporation.

107U Variation of group employer licence—new or additional relevant authority

Change of relevant authority

(1) If:

(a) a group employer licence is in force; and

(b) the administration manager requests the Commission, in writing, to:

(i) terminate a corporation’s designation as a relevant authority for the licence; and

(ii) designate another corporation covered by the licence as a relevant authority for the licence; and

(c) the covered corporations have consented, in writing, to the making of the request; and

(d) the conditions set out in the legislative rules are satisfied;

the Commission may, by written notice given to the administration manager, vary the licence so that it designates the other corporation as a relevant authority for the licence.

(2) A corporation mentioned in subparagraph (1)(b)(i) or (ii) may be the administration manager.
Additional relevant authority

(3) If:

(a) a group employer licence is in force; and
(b) there are one or more relevant authorities for the licence; and
(c) the administration manager requests the Commission, in writing, to designate a corporation covered by the licence as an additional relevant authority for the licence; and
(d) the covered corporations have consented, in writing, to the making of the request; and
(e) the conditions set out in the legislative rules are satisfied;
the Commission may, by written notice given to the administration manager, vary the licence so that it designates the corporation as a relevant authority for the licence.

(4) A corporation mentioned in paragraph (3)(c) may be the administration manager.

Automatic change

(5) If:

(a) a group employer licence is in force; and
(b) a corporation designated in the licence as a relevant authority for the licence has ceased to be covered by the licence; and
(c) there is no other relevant authority for the licence; and
(d) there is an administration manager for the licence;
the Commission must, by written notice given to the administration manager, vary the licence so that it designates the administration manager as a relevant authority for the licence.

107V Variation of group employer licence with the consent of the covered corporations

The legislative rules may empower the Commission to vary a group employer licence, so long as:

(a) the covered corporations have consented, in writing, to the variation; and
(b) the other conditions specified in those legislative rules are satisfied.
107W Commission may vary the scope of a group employer licence or extend its term

(1) If:
(a) a group employer licence is in force; and
(b) the administration manager requests the Commission, in writing, to vary the scope of the licence; and
(c) the covered corporations have consented, in writing, to the making of the request;
the Commission may, by written notice given to the administration manager, vary the scope of the licence.

(2) If:
(a) a group employer licence is in force; and
(b) the administration manager requests the Commission, in writing, to extend the term of the licence; and
(c) the covered corporations have consented, in writing, to the making of the request;
the Commission may, by written notice given to the administration manager, extend the term of the licence.

107X Suspension or revocation of a group employer licence at the instance of the Commission

(1) If:
(a) a group employer licence is in force; and
(b) the Commission considers it appropriate to do so;
the Commission may, by written notice given to the administration manager:
(c) suspend the licence for a specified period; or
(d) revoke the licence.

(2) Before taking action under subsection (1), the Commission must follow such procedures, if any, as are specified in the Minister’s directions as procedures preliminary to the suspension or revocation of a group employer licence at the instance of the Commission.

Note: For the Minister’s directions, see section 101.
(3) If:
   (a) a group employer licence is in force; and
   (b) there is no administration manager for the licence;
   the Commission may, by written notice given to each of the
   covered corporations, revoke the licence.

(4) Before taking action under subsection (3), the Commission must
follow such procedures, if any, as are specified in the Minister’s
directions as procedures preliminary to the revocation of a group
employer licence at the instance of the Commission.

Note: For the Minister’s directions, see section 101.

107Y Revocation of group employer licence at request of
administration manager

If:
   (a) a group employer licence is in force; and
   (b) the administration manager requests the Commission, in
       writing, to revoke the licence; and
   (c) the covered corporations have consented, in writing, to the
       making of the request;
   the Commission may, by written notice given to the administration
   manager, revoke the licence.

107Z Effect of suspension or revocation

The legislative rules may provide for the consequences of:
   (a) the suspension of a group employer licence under
       section 107X; or
   (b) the revocation of a group employer licence under
       section 107X or 107Y.

107ZA Group employer licence is not a legislative instrument

(1) A group employer licence is not a legislative instrument.

(2) A notice under this Part that varies, extends, suspends or revokes a
    group employer licence is not a legislative instrument.
99 Before section 108

Insert:

Subdivision A—Single employer licences

100 Section 108 (heading)

Repeal the heading, substitute:

108 Single employer licence may authorise licence holder to accept liability

101 Subsection 108(1)

Before “licence”, insert “single employer”.

102 Subsection 108(1)

Omit “licensee”, substitute “licence holder”.

103 Subsection 108(2)

Before “licence”, insert “single employer”.

104 Subsection 108(3)

Before “licence” (first occurring), insert “single employer”.

105 Subsection 108(3)

Omit “licensee”, substitute “licence holder”.

106 Subsection 108(3)

Before “licence” (last occurring), insert “single employer”.

107 Section 108A (heading)

Repeal the heading, substitute:
108A Consequences of a licence holder’s authorisation to accept liability

108 Paragraph 108A(1)(a)
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

109 Paragraph 108A(1)(c)
Omit “licensee”, substitute “licence holder”.

110 Subsection 108A(2)
Before “licence”, insert “single employer”.

111 Subsection 108A(2)
Omit “licensee”, substitute “licence holder”.

112 Subsection 108A(3)
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

113 Subsection 108A(3)
Omit “the licensee”, substitute “the licence holder”.

114 Subsection 108A(3) (note)
Omit “licensees”, substitute “licence holders”.

115 Subsection 108A(4)
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

116 Subsections 108A(4), (5) and (6)
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

117 Subsection 108A(7)
Omit “a licensee who is a corporation”, substitute “the licence holder of a single employer licence who is a corporation (other than a Commonwealth authority)”.
118 Paragraph 108A(7)(a)

Omit “a licensee”, substitute “the licence holder”.

119 At the end of Division 3 of Part VIII

Add:

Subdivision B—Group employer licences

108AA Group employer licence may authorise a relevant authority to accept liability

(1) A group employer licence may provide that each relevant authority is authorised to accept liability to pay compensation and other amounts under this Act in respect of:

(a) particular injury, loss or damage suffered by; or

(b) the death of;

some or all of the employees of the corporations that were covered by the licence when the injury, loss, damage or death occurred.

(2) If such a liability is accepted by a relevant authority, the liability is accepted on behalf of the corporations that were covered by the licence when the injury, loss, damage or death occurred.

(3) The scope of the group employer licence, so far as it authorises acceptance of liability to pay such compensation and other amounts, may be determined by the Commission.

(4) For the purposes of subsections (1) and (2), if:

(a) an injury suffered by an employee of a corporation occurred when the corporation was covered by the group employer licence; and

(b) the injury resulted in the death of the employee; and

(c) the death occurred after the corporation ceased to be covered by the licence;

the death is taken to have occurred when the corporation was covered by the licence.
Schedule 2  Group employer licences

Part 1  Amendments

108AB  Consequences of a relevant authority’s authorisation to accept liability

(1) If:

(a) a relevant authority of a group employer licence is authorised to accept liability to pay compensation and other amounts under this Act in respect of:

(i) particular injury, loss or damage suffered by; or

(ii) the death of;

some or all of the employees of the corporations that were covered by the licence when the injury, loss, damage or death occurred; and

(b) such injury, loss, damage or death occurs;

then:

(c) those corporations are jointly and severally liable to pay compensation and other amounts under this Act in respect of that injury, loss, damage or death; and

(d) Comcare is not liable to pay compensation or other amounts under this Act in respect of that injury, loss, damage or death; and

(e) no workers’ compensation law applies to such a corporation in respect of that injury, loss, damage or death; and

(f) such a corporation is not liable to have any proceedings (including proceedings under Part VI) brought against it in respect of that injury, loss, damage or death, unless those proceedings are proceedings for the recovery of compensation or other amounts under this Act.

Note: Proceedings may be brought against a relevant authority in respect of the management of claims (see subsection 108CB(3)).

(2) For the purposes of paragraph (1)(a), if:

(a) an injury suffered by an employee of a corporation occurred when the corporation was covered by the group employer licence; and

(b) the injury resulted in the death of the employee; and

(c) the death occurred after the corporation ceased to be covered by the licence;

the death is taken to have occurred when the corporation was covered by the licence.
120 Before section 108B
Insert:

Subdivision A—Single employer licences

121 Section 108B (heading)
Repeal the heading, substitute:

108B Single employer licence may authorise licence holder to
manage claims

122 Subsection 108B(1)
Before “licence”, insert “single employer”.

123 Subsection 108B(1)
Omit “licensee” (first occurring), substitute “licence holder”.

124 Subsection 108B(1)
Omit “licensee’s”, substitute “licence holder’s”.

125 Subsection 108B(1)
Omit “licensee” (last occurring), substitute “licence holder”.

126 Subsection 108B(2)
Before “licence”, insert “single employer”.

127 Subsection 108B(2)
Omit “licensee”, substitute “licence holder”.

128 Subsection 108B(3)
Omit “A licensee”, substitute “The licence holder of a single employer
licence”.

129 Subsection 108B(3)
Omit “licensee’s”, substitute “licence holder’s”.

No.  , 2014  Safety, Rehabilitation and Compensation Legislation Amendment Bill  2014
Schedule 2  Group employer licences
Part 1  Amendments

130 Subsection 108B(3)
Omit “licensee” (last occurring), substitute “licence holder”.

131 Subsection 108B(4)
Omit “licensee” (wherever occurring), substitute “licence holder”.

132 Subsection 108B(5)
Before “licence” (first occurring), insert “single employer”.

133 Subsection 108B(5)
Omit “licensee”, substitute “licence holder”.

134 Subsection 108B(6)
Before “licence” (first occurring), insert “single employer”.

135 Subsection 108B(6)
After “corporation” (first occurring), insert “(other than a Commonwealth authority)”.

136 Section 108C (heading)
Repeal the heading, substitute:

108C Consequences of a licence holder’s authorisation to manage claims

137 Subsection 108C(1)
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

138 Subsection 108C(1)
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

139 Subsection 108C(1)
Before “licence”, insert “single employer”.

52 Safety, Rehabilitation and Compensation Legislation Amendment Bill No. , 2014
2014
140 **Subsection 108C(2)**
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

141 **Subsection 108C(2)**
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

142 **Subsection 108C(3)**
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

143 **Subsection 108C(3)**
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

144 **Paragraph 108C(4)(a)**
Before “licence”, insert “single employer”.

145 **Subsection 108C(4)**
Omit “the licensee”, substitute “the licence holder”.

146 **Subsection 108C(5)**
Before “licence”, insert “single employer”.

147 **Subsection 108C(5)**
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

148 **Subsection 108C(6)**
Omit “licensee”, substitute “licence holder of a single employer licence”.

149 **Subsection 108C(7)**
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

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*No. 140-149, 2014* Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014
150 **Subsection 108C(7)**
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

151 **Subsection 108C(8)**
Omit “licensee” (first occurring), substitute “licence holder of a single employer licence”.

152 **Paragraph 108C(8)(a)**
Omit “the licensee”, substitute “the licence holder of the licence”.

153 **Subsection 108C(10)**
Omit “licensee”, substitute “licence holder”.

154 **At the end of Division 4 of Part VIII**
Add:

**Subdivision B—Group employer licences**

**108CA  Group employer licence may authorise relevant authority to manage claims**

(1) A group employer licence may authorise:
   (a) each relevant authority for the licence; or
   (b) a specified person acting on a relevant authority’s behalf;
   to manage some or all of the claims that the relevant authority is authorised by the licence to accept.

(2) The scope of the group employer licence, so far as it authorises management by a relevant authority of claims made under this Act, may be determined by the Commission.

(3) A relevant authority may, at any time, enter into a contract with another person for the management, on the relevant authority’s behalf, of the claims that the relevant authority is authorised to manage.

(4) If a relevant authority enters into such a contract, it does not come into force unless and until the Commission has varied the licence.
to note the identity of the person with whom the relevant authority has contracted for the management of claims.

108CB Consequences of a relevant authority’s authorisation to manage claims

(1) If a relevant authority for a group employer licence is authorised by the licence to manage claims, the relevant authority must determine any particular claim that the relevant authority is authorised to manage in accordance with the scope of the licence.

(2) If a relevant authority for a group employer licence is authorised to manage claims, then, in respect of any particular claim that the relevant authority is authorised to manage, any notice or claim given or made under Part V after the licence comes into force is to be given or made to the relevant authority.

(3) If a relevant authority for a group employer licence is authorised to manage claims, any proceedings (including proceedings under Part VI) that may be brought:
   (a) in relation to a determination made, or taken to have been made, by the relevant authority in managing such a claim; or
   (b) in relation to any thing done, or taken to have been done, by the relevant authority in managing such a claim;
   must be brought against the relevant authority.

(4) If proceedings are brought against a relevant authority for a group employer licence in accordance with subsection (3):
   (a) the relevant authority must inform Comcare as soon as practicable that the proceedings have been brought; and
   (b) the court or tribunal before which the proceedings have been brought must, on application by Comcare, join Comcare as a party to the proceedings.

(5) An application by Comcare under subsection (4):
   (a) may be made by filing a notice in the registry of the court or tribunal concerned; and
   (b) must be notified to the other parties to the proceedings by serving on them a copy of the notice so filed.
(6) A decision in proceedings referred to in subsection (4) is binding on the relevant authority and on Comcare, whether or not Comcare is joined as a party to the proceedings.

155 Before section 108D

Insert:

Subdivision A—Single employer licences

156 Section 108D (heading)

Repeal the heading, substitute:

108D Commission may grant single employer licence on conditions

157 Subsection 108D(1)

Before “licence” (first occurring), insert “single employer”.

158 Subsection 108D(1)

Omit “the licensee” (first occurring), substitute “the licence holder”.

159 Paragraphs 108D(1)(a), (b) and (c)

Omit “the licensee”, substitute “the licence holder”.

160 Paragraph 108D(1)(c)

Omit “licensee’s”, substitute “licence holder’s”.

161 Paragraph 108D(1)(d)

Omit “the licensee”, substitute “the licence holder”.

162 Paragraph 108D(1)(d)

Omit “licensee’s”, substitute “licence holder’s”.

163 Paragraphs 108D(1)(e), (f) and (g)

Omit “the licensee” (wherever occurring), substitute “the licence holder”.

56 Safety, Rehabilitation and Compensation Legislation Amendment Bill No. 2014
164 **Subsection 108D(2)**

Before “licence” (first occurring), insert “single employer”.

165 **Subsection 108D(2)**

Omit “licensee”, substitute “licence holder”.

166 **At the end of Division 5 of Part VIII**

Add:

**Subdivision B—Group employer licences**

108DA **Commission may issue group employer licence on conditions**

(1) The Commission may, in issuing a group employer licence, express the licence to be subject to any conditions it considers are necessary to achieve the objects of this Act in its application to the covered corporations.

(2) Without limiting the matters the conditions may deal with, the conditions may include:

(a) a condition that each covered corporation, and any person acting on behalf of a covered corporation, will comply with the requirements of this Act and any relevant directions given by the Commission; and

(b) a condition that each covered corporation will pay such licence fees and other fees as are calculated in such manner, and payable at such times, as the Commission specifies; and

(c) a condition that each specified covered corporation will maintain such funds, and in such form, as the Commission directs for the purpose of enabling the due discharge of the covered corporation’s liability to pay:

(i) compensation and other amounts under this Act; or

(ii) so much of that liability as exceeds a specified amount; and

(d) a condition that appropriate bank or other guarantees will be obtained by each specified covered corporation for the due discharge of the covered corporation’s liability to pay:

(i) compensation and other amounts under this Act; or
(ii) so much of that liability as exceeds a specified amount;

and

(e) a condition that each covered corporation will comply with

the requirements of any applicable laws of the

Commonwealth, States and Territories with respect to the

safety, health and rehabilitation of employees; and

(f) a condition that, in all circumstances or specified

circumstances, each covered corporation will not cause or

permit to be made on its behalf to a court or tribunal any

submission that Comcare or the Commission has requested

the covered corporation not to make; and

(g) conditions concerning performance of functions in relation to

the licence by persons other than a covered corporation,

including conditions concerning the reconsideration of

determinations made by a relevant authority; and

(h) conditions requiring provision of information and

notifications in respect of specified events.

(3) This section does not prevent each of the corporations covered by a

group employer licence from being specified in a condition

mentioned in paragraph (2)(c) or (d).

Variation of conditions

(4) At any time while a group employer licence is in force, the

Commission may, by written notice given to the administration

manager, vary the conditions to which the licence is subject.

(5) The notice must set out:

(a) the terms of the variation; and

(b) the date of effect of the variation (which must not be earlier

than the date of notification of the variation).

167 Section 108E (heading)

Repeal the heading, substitute:
108E Functions of licence holders of single employer licences

168 Section 108E
Omit “a licensee”, substitute “the licence holder of a single employer licence”.

169 Section 108E
After “corporation” (first occurring), insert “(other than a Commonwealth authority)”.

170 Section 108E
Omit “the licensee” (wherever occurring), substitute “the licence holder”.

171 Section 108F (heading)
Repeal the heading, substitute:

108F Powers of licence holders of single employer licences

172 Section 108F
Omit “A licensee”, substitute “The licence holder of a single employer licence”.

173 After section 108F
Insert:

108FA Functions of corporations covered by group employer licences

The functions of a corporation covered by a group employer licence include, in addition to any functions conferred under other legislation or in the constitution of the corporation, the following additional functions:

(a) if the corporation pays compensation or other amounts under this Act—to make those payments accurately and quickly; 
(b) if the corporation is a relevant authority for the licence—to determine relevant claims accurately and quickly, and to take
Schedule 2  Group employer licences

Part 1  Amendments

all necessary action in respect of the subsequent management of those claims;

(c) if the corporation is a relevant authority for the licence—to do anything, and to meet any obligation, the doing or meeting of which:

(i) is incidental to the performance of the function referred to in paragraph (b); and

(ii) would be required of Comcare if Comcare had responsibility for the performance of that function;

(d) if the corporation is the administration manager for the licence—to maintain contact with the Commission and with Comcare to ensure that, as far as practicable, there is equity of outcomes resulting from administrative practices and procedures used by Comcare and the corporation in the performance of their respective functions;

(e) to comply with the conditions to which the licence is subject.

108FB  Powers of corporations covered by group employer licences

A corporation covered by a group employer licence has power to do all things necessary or convenient to be lawfully done for, or in connection with, the performance of functions conferred by section 108FA.

174  Paragraph 108G(a)

Before “licence”, insert “single employer”.

175  After paragraph 108G(a)

Insert:

(a) the variation (other than under section 107Q) of a group employer licence; or

(b) the extension, suspension or revocation of a group employer licence; or

176  Section 108G

After “specified in”, insert “, or ascertained in accordance with,”
177 At the end of Part VIII

Add:

108J Single relevant authority for a group employer licence

(1) If:
   
   (a) there is a single relevant authority for a group employer licence; and
   
   (b) a financial liability would otherwise be imposed by or under this Act on the relevant authority in relation to:
       
       (i) injury, loss or damage suffered by; or
       (ii) the death of;
       
       an employee of a corporation that was covered by the licence when the injury, loss, damage or death occurred;

       the financial liability is imposed jointly and severally on the corporations that were covered by the licence when the injury, loss, damage or death occurred, instead of on the relevant authority alone.

(2) If:
   
   (a) there is a single relevant authority for a group employer licence; and
   
   (b) a financial liability that would otherwise be imposed by or under this Act on the relevant authority is not covered by subsection (1);

       the financial liability is imposed jointly and severally on the covered corporations, instead of on the relevant authority alone.

108K Multiple relevant authorities for a group employer licence

(1) If:
   
   (a) a group employer licence is in force; and
   
   (b) there are 2 or more relevant authorities for the licence; and

   (c) a financial liability would otherwise be imposed by or under this Act on a relevant authority in relation to:

       (i) injury, loss or damage suffered by; or
       (ii) the death of;
an employee of a corporation that was covered by the licence
when the injury, loss, damage or death occurred;
the financial liability is imposed jointly and severally on the
corporations that were covered by the licence when the injury, loss,
damage or death occurred, instead of on a relevant authority alone.

(2) If:
   (a) a group employer licence is in force; and
   (b) there are 2 or more relevant authorities for the licence; and
   (c) a financial liability that would otherwise be imposed by or
       under this Act on a relevant authority is not covered by
       subsection (1);
       the financial liability is imposed jointly and severally on the
       covered corporations, instead of on a relevant authority alone.

(3) If there are 2 or more relevant authorities for a group employer
licence, a non-financial obligation imposed by or under this Act on
a relevant authority may be discharged by any of the relevant
authorities.

(4) For the purposes of subsection (1), if:
   (a) an injury suffered by an employee of a corporation occurred
       when the corporation was covered by the group employer
       licence; and
   (b) the injury resulted in the death of the employee; and
   (c) the death occurred after the corporation ceased to be covered
       by the licence;
       the death is taken to have occurred when the corporation was
       covered by the licence.

108L Extended meaning of relevant authority

(1) If:
   (a) a group employer licence is in force; and
   (b) a corporation has ceased to be covered by the licence; and
   (c) either:
       (i) injury, loss or damage suffered by; or
       (ii) the death of;
an employee of the corporation occurred when the corporation was covered by the licence;
then, for the purposes of the application of this Act to the injury, loss, damage or death, relevant authority, in relation to the employee, means a relevant authority for the licence.

(2) For the purposes of subsection (1), if:
   (a) an injury suffered by an employee of a corporation occurred when the corporation was covered by the group employer licence; and
   (b) the injury resulted in the death of the employee; and
   (c) the death occurred after the corporation ceased to be covered by the licence;
   the death is taken to have occurred when the corporation was covered by the licence.

108M Notification of cessation of coverage under a group employer licence

(1) If:
   (a) a group employer licence is in force; and
   (b) a covered corporation (the departing corporation) ceases to be a related body corporate of the key body corporate; and
   (c) the departing corporation is not the administration manager; the administration manager must:
      (d) notify the Commission, in writing, of the cessation; and
      (e) do so within 5 working days after becoming aware of the cessation.

(2) If:
   (a) a group employer licence is in force; and
   (b) a covered corporation (the departing corporation) ceases to be a related body corporate of the key body corporate; and
   (c) the departing corporation is the administration manager; the covered corporations must:
      (d) notify the Commission, in writing, of the cessation; and
      (e) do so within 5 working days after becoming aware of the cessation.
(3) An obligation imposed by subsection (2) on the covered corporations may be discharged by any of the covered corporations.

108N Grandfathering of single employer licence—transition to group employer licence

(1) If a corporation:
   (a) is the licence holder of a single employer licence; and
   (b) becomes covered by a group employer licence at a particular time;
then:
   (c) the single employer licence does not authorise the corporation to accept liability to pay compensation and other amounts under this Act in respect of:
       (i) injury, loss or damage suffered by; or
       (ii) the death of;
an employee of the corporation that occurred after that time; and
   (d) the single employer licence does not authorise the corporation, or a person acting on the corporation’s behalf, to manage a claim made in respect of:
       (i) injury, loss or damage suffered by; or
       (ii) the death of;
an employee of the corporation that occurred after that time; and
   (e) the corporation is taken to continue to be the relevant authority for the purposes of the application of this Act to:
       (i) injury, loss or damage suffered by; or
       (ii) the death of;
an employee of the corporation that occurred before that time.

(2) The Commission may, by written notice given to the licence holder of a single employer licence, vary the licence in order to ensure that the licence complies with subsection (1).

(3) Subsection (1) has effect despite any other provision of this Act.
(4) For the purposes of subsection (1), if:
   (a) an injury suffered by an employee of a corporation occurred
       when the corporation was the licence holder of a single
       employer licence; and
   (b) the injury resulted in the death of the employee; and
   (c) the death occurred after the corporation became covered by a
       group employer licence;
       the death is taken to have occurred when the corporation was the
       licence holder of the single employer licence.

178 Subparagraph 114A(1)(a)(ii)
   Omit “a licence”, substitute “a single employer licence”.

179 Subparagraph 114A(1)(a)(iii)
   Repeal the subparagraph, substitute:
   (iii) a Commonwealth authority that is covered by a group
         employer licence and is required, in accordance with the
         conditions to which that licence is subject, to notify
         Comcare of the retirement of the employee; or
   (iv) a Commonwealth authority that is not a licensed
        authority;

180 Subsection 114B(15)
   Repeal the subsection.

181 After section 121A
   Insert:

   121B Fees
   A fee under this Act must not be such as to amount to taxation.

182 At the end of Part IX
   Add:
Schedule 2  Group employer licences

Part 1  Amendments

122A  Legislative rules

The Minister may, by legislative instrument, make rules (legislative rules) prescribing matters:
(a) required or permitted by this Act to be prescribed by the legislative rules; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Work Health and Safety Act 2011

183  Section 4 (definition of non-Commonwealth licensee)

Repeal the definition, substitute:

non-Commonwealth licensee means:
(a) a body corporate that:
   (i) holds a single employer licence under Part VIII of the Safety, Rehabilitation and Compensation Act 1988 (whether or not the licence is suspended); and
   (ii) is not a Commonwealth authority within the meaning of that Act; or
(b) a body corporate that:
   (i) is covered by a group employer licence under Part VIII of the Safety, Rehabilitation and Compensation Act 1988 (whether or not the licence is suspended); and
   (ii) is not a Commonwealth authority within the meaning of that Act.
Part 2—Transitional provisions

184 Transitional—licences

(1) This item applies to a licence under Part VIII of the Safety, Rehabilitation and Compensation Act 1988 if the licence was in force immediately before the commencement of this item.

(2) The licence has effect, after the commencement of this item, as if it were a single employer licence.

(3) The Commission must:

   (a) by written notice given to the licence holder, vary the licence by renaming the licence as a single employer licence; and
   (b) do so as soon as practicable after the commencement of this item.

(4) A reference in the licence to the licensee is to be read as a reference to the licence holder.

185 Transitional—application form

The amendment of paragraph 102(1)(a) of the Safety, Rehabilitation and Compensation Act 1988 made by this Schedule does not affect the continuity of regulations that were:

   (a) made for the purposes of that paragraph; and
   (b) in force immediately before the commencement of this item.
Schedule 3—Injury caused by misconduct

Part 1—Amendments

Safety, Rehabilitation and Compensation Act 1988

1 Subsection 14(3)
Omit “but is not intentionally self-inflicted, unless the injury results in
death, or serious and permanent impairment”.

2 Subsection 147(2) (before table item 1)
Insert:

1A Subsection 14(3) The subsection applies as if the words “but is not
intentionally self-inflicted, unless the injury results
in death, or serious and permanent impairment”
were added at the end.
Part 2—Application provisions

3 Application of amendment

The amendment of subsection 14(3) of the Safety, Rehabilitation and Compensation Act 1988 made by this Schedule applies in relation to an injury sustained by an employee after the commencement of this item.
Schedule 4—Recess in employment

Part 1—Amendments

Safety, Rehabilitation and Compensation Act 1988

1 Paragraph 6(1)(b)

Repeal the paragraph, substitute:

(b) while the employee was at the employee’s place of work,

including during an ordinary recess, for the purposes of that

employment; or

2 Subsection 6(3)

Repeal the subsection, substitute:

(3) Subsection (1) does not apply if the employee sustained the injury

because he or she voluntarily and unreasonably submitted to an

abnormal risk of injury.
Part 2—Application provisions

3 Application of amendments

The amendments made by this Schedule apply in relation to an injury sustained by an employee after the commencement of this item.
Schedule 5—Technical corrections

Work Health and Safety Act 2011

1 Section 4 (paragraphs (a), (b) and (c) of the definition of *court*)
   Omit “; and”, substitute “; or”.

2 Section 4 (paragraphs (a) and (b) of the definition of *public authority*)
   Omit “; and”, substitute “; or”.
