

NORTHERN TERRITORY OF AUSTRALIA

RETURN TO WORK REGULATIONS 1986

As in force at 12 June 2024

Table of provisions

1	Citation	1
2	Commencement	1
3	Definitions	1
3AA	Prescribed adjacent areas	2
3A	Definition of <i>worker</i>	2
4	Prescribed member of family	3
4A	Worker of household	3
5	Prescribed amount	3
5AA	Prescribed class of worker and prescribed limitation	3
5AB	Prescribed diseases	3
5A	Inspectors' identity cards	4
5B	Prescribed diseases and qualifying periods: firefighters	4
5C	Prescribed number of fires and prescribed firefighting period	5
6	Prescribed amount of funeral benefit	5
6AA	Expert financial advice	5
6A	Entitlement to compensation of worker residing outside Australia	6
8	Compensation for certain volunteers	6
11	Declarations	6
11A	Catastrophic injury	6
12	Medical certificate of capacity accompanying claim	7
13	Statement of right to commence proceedings before court	7
14	Late payment of weekly payments	7
14A	Procedure for mediation	8
15	Prescribed indemnity	8
15A	Prescribed provisions for policy of indemnity or insurance	8
16	Employer's wages declarations	8
17	Election to pay premium by instalment	9
17A	Late payment of premiums	9
17B	Contributions to Nominal Insurer's Fund	9
17C	Amount of contributions	9
18	Service on Nominal Insurer	10
19	Infringement notice offence and prescribed amount payable	10
20	When infringement notice may be given	10
21	Contents of infringement notice	10
22	Payment by cheque	11
23	Withdrawal of infringement notice	12
24	Application of regulations 19 to 23	12

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- Schedule 1** **Adjacent areas**
- Schedule 2** **Prescribed diseases and kinds of
employment**
- Schedule 2A** **Catastrophic injury**
- Schedule 3** **Prescribed provisions for compulsory
insurance**
- Schedule 4** **Infringement notice offences and
prescribed amounts**

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 12 June 2024

RETURN TO WORK REGULATIONS 1986

Regulations under the *Return to Work Act 1986*

1 Citation

These Regulations may be cited as the *Return to Work Regulations 1986*.

2 Commencement

These Regulations shall come into operation on 1 January 1987.

3 Definitions

In these Regulations:

correctional officer, see section 4 of the *Correctional Services Act 2014*.

first responder, for Schedule 2, means a person with specialised training (such as a paramedic, police officer, firefighter, correctional officer or other emergency personnel), who attends the site of an incident and provides assistance in situations:

- (a) involving actual or potential injury to persons or damage to property; and
- (b) which may also include risk to the first responder; and
- (c) where time may be of the essence to save lives or property.

infringement notice, see regulation 20.

infringement notice offence, see regulation 19(1).

prescribed amount, for an infringement notice offence, see regulation 19(2).

3AA Prescribed adjacent areas

For the definition *jurisdiction* in section 3(1) of the Act, the prescribed adjacent areas of States and Territories are those set out in Schedule 1.

3A Definition of worker

(1) For section 3B(17)(a) of the Act:

- (a) a member of the operations branch of St. John Ambulance Australia (N.T.) Inc.; and
- (aa) a person complying with a summons served on the person in pursuance of the *Juries Act 1962* or while serving as a juror under that Act; and
- (b) a natural person who is authorised by a club, within the meaning of Part III of the *Racing and Betting Act 1983*:
 - (i) to ride or drive a horse or pony (whether or not for a fee or reward) on a racecourse licensed under that Part, or in an area adjacent to the racecourse where horses are usually worked or trained, while the person is so authorised; or
 - (ii) to provide services (whether or not for a fee or reward) as a stablehand on a racecourse or in an area mentioned in subparagraph (i) while the person is so authorised; and
- (c) a natural person who is engaged to drive a taxi, private hire car, limousine or motor omnibus, within the meaning of the *Commercial Passenger (Road) Transport Act 1991*, by a person who, or by a director of a body corporate that:
 - (i) is accredited within the meaning of that Act or is exempted under section 15 of that Act; and
 - (ii) is approved by the Authority for this regulation,while the person is so engaged,

are persons prescribed as workers for the Act.

(2) For section 3B(17)(b) of the Act:

- (a) a member of the crew of a fishing vessel who is remunerated wholly or mainly by a share in the profits or gross earnings from the working of the vessel; and

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- (b) a person operating as a direct selling agent under an agency agreement approved by the Authority for this regulation; and
 - (c) a person who is a carer under the *Care and Protection of Children Act 2007*; and
 - (d) a person, other than a person referred to in paragraph (c), caring for reward or gain, whether monetary or otherwise, in the person's place of residence of another person's child;

are prescribed persons who are not workers for the Act.

4 Prescribed member of family

For section 3B(3) and (4) of the Act, a spouse, a parent (including a stepmother or stepfather) or grandparent, a child (including a stepchild) or grandchild, a brother or sister (including a half brother or half sister) are prescribed members of the immediate family of an employer.

4A Worker of household

For section 3B(11) of the Act, the prescribed amount is 20% of the annual equivalent of average weekly earnings.

5 Prescribed amount

For section 3B(15) of the Act, the prescribed amount is 65% of the annual equivalent of average weekly earnings.

5AA Prescribed class of worker and prescribed limitation

For section 4(3) of the Act, police officers are prescribed to be a class of worker, subject to the limitation that the injury occurs, in each case, while the worker is travelling by the shortest convenient route between the worker's place of residence and the worker's workplace.

5AB Prescribed diseases

For section 4(6)(a) of the Act, the diseases and kinds of diseases, and the kinds of employment related to those diseases, are those prescribed and specified in Schedule 2.

5A Inspectors' identity cards

For section 7B(1) of the Act, an identity card given to an inspector must include the following:

- (a) a recent photograph of the inspector of the size, and in the form, specified by the Authority;
- (b) the inspector's signature;
- (c) the date (if any) on which the inspector's appointment ends;
- (d) any conditions to which the inspector's appointment is subject.

5B Prescribed diseases and qualifying periods: firefighters

For section 50A of the Act, the following diseases and qualifying periods are prescribed as specified in the following table:

Item	Disease	Qualifying period
1	Primary leukaemia	5 years
2	Primary site brain cancer	5 years
3	Primary site breast cancer	10 years
4	Primary site cervical cancer	10 years
5	Primary site ovarian cancer	10 years
6	Primary site pancreatic cancer	10 years
7	Primary site testicular cancer	10 years
8	Primary site thyroid cancer	10 years
9	Primary site uterine cancer	10 years
10	Asbestos related diseases	15 years
11	Malignant Mesothelioma	15 years
12	Multiple myeloma	15 years
13	Primary non-Hodgkin's lymphoma	15 years
14	Primary site bladder cancer	15 years

15	Primary site colorectal cancer	15 years
16	Primary site kidney cancer	15 years
17	Primary site liver cancer	15 years
18	Primary site lung cancer	15 years
19	Primary site penile cancer	15 years
20	Primary site prostate cancer	15 years
21	Primary site skin cancer	15 years
22	Primary site ureter cancer	15 years
23	Primary site oesophageal cancer	25 years

5C Prescribed number of fires and prescribed firefighting period

For paragraph (a)(ii) of the definition ***working as an active firefighter*** in section 50A(3) of the Act:

- (a) the prescribed number of fires is 150; and
- (b) the prescribed firefighting period is:
 - (i) 5 years, if the prescribed disease is primary site brain cancer or primary leukaemia; or
 - (ii) 10 years for any other prescribed disease.

6 Prescribed amount of funeral benefit

For section 62(1)(a)(ii) of the Act, the prescribed amount is 20% of the annual equivalent of average weekly earnings.

6AA Expert financial advice

- (1) For the definition ***expert financial advice*** in section 3(1) of the Act, expert financial advice means a financial service for which a person is required to hold an Australian financial services licence, whether or not as an authorised representative or representative of a person who carries on a financial services business.
- (2) In this regulation:

Australian financial services licence, see Chapter 7 of the Corporations Act 2001.

authorised representative, see Chapter 7 of the Corporations Act 2001.

financial service, see Chapter 7 of the Corporations Act 2001.

financial services business, see Chapter 7 of the Corporations Act 2001.

6A Entitlement to compensation of worker residing outside Australia

For section 65B(2)(a) of the Act, the worker must give the employer, at intervals of not less than 3 months, a declaration, in the approved form, made by each of the following:

- (a) the worker;
- (b) a medical practitioner or, if the worker is living in another country, a person registered under the law of the country that provides for the registration of persons practising the medical profession.

8 Compensation for certain volunteers

For section 66 of the Act, compensation is calculated as the remuneration for the person's normal weekly number of hours of work for all employment of the person at the time of the injury calculated at his or her ordinary time rate of pay or 50% of average weekly earnings, whichever is the greater amount.

11 Declarations

Declarations required or permitted to be made by or under the Act may be witnessed by a person who is authorised under the *Oaths, Affidavits and Declarations Act 2010* to witness a statutory declaration.

11A Catastrophic injury

For section 78A(6) of the Act, an injury mentioned in Schedule 2A is prescribed as a catastrophic injury.

12 Medical certificate of capacity accompanying claim

- (1) For section 82(1)(b) of the Act, the following persons are prescribed for issuing a medical certificate of capacity for a worker if, because of the worker's isolation, a medical practitioner is unable to issue such a certificate:
- (a) persons registered under the Health Practitioner Regulation National Law to practise in the nursing profession (other than as students);
 - (b) persons registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession (other than as students).
- (2) For section 82(6) of the Act, a medical certificate of capacity referred to in section 82(1)(b) of the Act has effect for the following period:
- (a) if it is from a medical practitioner – 14 days;
 - (b) if it is from a prescribed person who has consulted about the matter with a medical practitioner by radio, telephone or other means – 14 days;
 - (c) if it is from a prescribed person who has not consulted about the matter with a medical practitioner – 3 days.

13 Statement of right to commence proceedings before court

If the employer gives the worker a statement referred to in section 69(1)(b) or 85(8) of the Act, the employer must also give the worker:

- (a) a copy of the statement; and
- (b) a copy of the approved information bulletin relating to the mediation process.

14 Late payment of weekly payments

For section 89 of the Act, the prescribed rate of interest is the rate applicable to a judgment debt under a judgment of the Supreme Court.

14A Procedure for mediation

- (1) A mediator must keep a record of the mediation of a dispute that includes:
 - (a) a description of the nature of the dispute; and
 - (b) the parties to the mediation; and
 - (c) the outcome of the mediation.
- (2) If a mediator convenes a conference under section 103C(3)(b) of the Act, the mediator:
 - (a) must set the date on which, and the time and place at which, the conference is to take place; and
 - (b) must preside at the conference; and
 - (c) may adjourn or terminate the conference at any time.

15 Prescribed indemnity

For paragraph (c) of the definition ***adequate policy of insurance or indemnity*** in section 126 of the Act, \$2,000,000 is the prescribed amount.

15A Prescribed provisions for policy of indemnity or insurance

For section 126AB(3)(b)(i) of the Act, the prescribed provisions are those set out in Schedule 3.

16 Employer's wages declarations

For section 130(4)(b) of the Act, a statement must be verified, if an employer is:

- (a) a natural person – by the natural person; or
- (b) a partnership – by one of the partners; or
- (c) a body corporate (other than an incorporated association referred to in paragraph (c)) – by a director or secretary of the body corporate or its principal officer in the Territory; or
- (d) an incorporated association, within the meaning of the *Associations Act 2003* – by the public officer;

making a statutory declaration to the effect that the estimate of wages and other prescribed information is true and correct.

17 Election to pay premium by instalment

For section 131 of the Act, where an employer and insurer do not agree on the manner of election to pay premiums by instalments, the employer may elect by serving a notice in writing on the insurer not later than 21 days before the first instalment is payable under that section.

17A Late payment of premiums

For section 131(3) of the Act, the prescribed rate of interest is the rate applicable to a judgment debt under a judgment of the Supreme Court.

17B Contributions to Nominal Insurer's Fund

- (1) The Nominal Insurer may recommend a total amount to be contributed to the Nominal Insurer's Fund under section 164A of the Act by approved insurers and self-insurers during the financial year.
- (2) In determining the total amount mentioned in subregulation (1), the Nominal Insurer is to have regard to the amount standing to the credit of the Fund at the beginning of that year including:
 - (a) amounts set aside in earlier years as provision to meet expenditure in later years; and
 - (b) the amount estimated to be received into the Fund during the year other than from approved insurers and self-insurers under section 164A of the Act.

17C Amount of contributions

- (1) For section 164A of the Act, the contribution amount for each approved insurer and self-insurer is equal to a percentage determined by the Nominal Insurer in accordance with subregulation (2), as approved by the Minister under section 164(1)(e) of the Act, of:
 - (a) for an approved insurer – the premium income (whether received by or owing to the insurer) of the approved insurer in respect of policies of insurance or indemnity effected with the approved insurer by employers in the preceding financial year in compliance with section 126AA(1) of the Act; and
 - (b) for a self-insurer – the premium that would have been payable by the self-insurer if the self-insurer had obtained, in respect of that year, or the part of that year during which the self-insurer was a self-insurer, an adequate policy of insurance or

indemnity.

- (2) The percentage determined by the Nominal Insurer for subregulation (1) is to be:
 - (a) sufficient, in the opinion of the Nominal Insurer, to provide the total amount to be contributed to the Fund by approved insurers and self-insurers during the financial year as determined in accordance with section 164(1)(d) of the Act; and
 - (b) uniform for all approved insurers and self-insurers.

18 Service on Nominal Insurer

Anything required or permitted by the Act to be served on the Nominal Insurer may be served:

- (a) by clearly marking it for the attention of the Nominal Insurer and leaving it, during normal business hours, at the Darwin office of the Authority with a person who has apparently attained the age of 16 years and is employed at that office; or
- (b) by properly addressing and posting it by prepaid post to the Nominal Insurer, G.P.O. Box 2056, Darwin, N.T. 0800.

19 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 4.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 4.

20 When infringement notice may be given

If an inspector reasonably believes a person has committed an infringement notice offence, the inspector may give a notice (an ***infringement notice***) to the person.

21 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) the date the infringement notice is given to the person;
 - (c) the date, time and place of the infringement notice offence;

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- (d) a description of the offence;
 - (e) the prescribed amount payable for the offence;
 - (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act 2001*, to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act 2001* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

22 Payment by cheque

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

23 Withdrawal of infringement notice

- (1) The Authority may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
 - (a) within 28 days after the infringement notice is given to the person; and
 - (b) before payment of the prescribed amount.

24 Application of regulations 19 to 23

- (1) Regulations 19 to 23 do not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, those regulations do not:
 - (a) require an infringement notice to be given; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
 - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

Schedule 1 Adjacent areas

regulation 3AA

1 Definitions

In this Schedule:

continental shelf, see the *Seas and Submerged Lands Act 1973* (Cth).

territorial sea, see the *Seas and Submerged Lands Act 1973* (Cth).

2 Adjacent areas

- (1) The adjacent area for New South Wales, Victoria, South Australia or Tasmania is so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to that State as is within the outer limits of the continental shelf and includes the space above and below that area.
- (2) The adjacent area for Queensland is:
 - (a) so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to Queensland as is within the outer limits of the continental shelf; and
 - (b) the Coral Sea area (within the meaning of section 7(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)) other than the territorial sea within the Coral Sea area; and
 - (c) the areas within the outer limits of the territorial sea adjacent to certain islands of Queensland as determined by proclamation on 9 February 1983 under section 7 of the *Seas and Submerged Lands Act 1973* (Cth); and
 - (d) the space above and below the areas described in paragraphs (a), (b) and (c).
- (3) The adjacent area for Western Australia is:
 - (a) so much of the scheduled area for Western Australia described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) as is within the outer limits of the continental shelf; and

- (b) the space above and below the area described in paragraph (a).
- (4) The adjacent area for the Northern Territory is:
- (a) so much of the scheduled area for the Northern Territory described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) as is within the outer limits of the continental shelf; and
 - (b) the offshore area for the Territory of Ashmore and Cartier Islands (within the meaning of section 8(1) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)) other than the territorial sea within that area; and
 - (c) the space above and below the areas described in paragraphs (a) and (b).
- (5) However, the adjacent area for a State or Territory does not include any area inside the limits of any State or Territory.

Schedule 2 Prescribed diseases and kinds of employment

regulation 5AB

Diseases and kinds of Diseases

Kinds of Employment

INFECTIOUS DISEASE

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|----------------------|--|
| 1. Anthrax | All work involving animals or animal carcasses (such as animal handler, pelt handler, abattoir worker, meat inspector). |
| 2. Brucellosis | All work involving animals or animal carcasses (such as veterinarian, farmer or farm worker, abattoir worker, laboratory worker). |
| 3. Hepatitis A | All work involving contact with human waste (such as child care workers, carers of intellectually disabled persons, workers in rural or remote indigenous communities, sewage workers, plumbers). |
| 4. Hepatitis B and C | All work involving contact with human bodily secretions (such as health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces, emergency services worker). |
| 5. HIV/AIDS | Health care workers and laboratory workers who become HIV positive after a needle stick injury. |
| 6. Leptospirosis | All work involving animals or animal carcasses (such as farmer or farm worker, abattoir worker, forestry worker, hunter, veterinarian, livestock transport operator) or work with animal or human waste (such as plumber). |
| 7. Orf | All work involving sheep or sheep carcasses (such as sheep farmer or farm worker, goat farmer or farm worker, abattoir worker, meat inspector). |

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|----|--------------|--|
| 8. | Q-fever | All work involving contact with animals or animal parts in a rural setting (such as abattoir workers, stock workers, stock transporters, shearers, hide processors, farmers, veterinarians). |
| 9. | Tuberculosis | All work involving contact with persons or animals in situations where tuberculosis prevalence is likely to be significantly higher than the general community (such as health worker, clinical laboratory worker, funeral parlour staff, farmer, veterinarian), or person with silicosis. |

MENTAL HEALTH DISEASE

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|-----|--------------------------------|--|
| 9A. | Post-traumatic stress disorder | All work as a first responder, including as a volunteer, but not including a person trained as a first responder who has not attended in person at an emergency situation or incident. |
|-----|--------------------------------|--|

MALIGNANCY

- | | | |
|-----|-------------------------------------|---|
| 10. | Salivary gland | All work involving ionizing radiation. |
| 11. | Nasopharynx | All work involving formaldehyde, wood dust. |
| 12. | Oesophagus | All work involving ionizing radiation. |
| 13. | Stomach | All work involving ionizing radiation. |
| 14. | Colon and rectum | All work involving ionizing radiation. |
| 15. | Liver | All work involving vinyl chloride monomer, Hepatitis B virus or Hepatitis C virus exposure related to occupation. |
| 16. | Nasal cavity and para-nasal sinuses | All work involving ionizing radiation, leather dust, nickel, wood dust. |
| 17. | Larynx | All work involving strong inorganic acid mist, asbestos. |

18.	Lung	All work involving arsenic, asbestos, beryllium, bis(chloromethyl)ether, cadmium, chromium VI, diesel engine exhaust, environmental tobacco smoke, ionizing radiation, nickel, polycyclic aromatic hydrocarbons, Radon-222 and its decay products, silica dust (crystalline), soot (chimney sweeping).
19.	Bone	All work involving ionizing radiation.
20.	Skin (melanoma)	All work involving solar radiation, polychlorinated biphenyls.
21.	Skin (non-melanoma)	All work involving ionizing radiation, polycyclic aromatic hydrocarbons, solar radiation.
22.	Mesothelioma	All work involving asbestos.
23.	Breast (female)	All work involving ionizing radiation.
24.	Ovary	All work involving asbestos.
25.	Kidney	All work involving ionizing radiation, trichloroethylene.
26.	Bladder	All work involving 2-naphthylamine, benzidine, cyclophosphamide, ionizing radiation, ortho-toluidine, polycyclic aromatic hydrocarbons associated with aluminium production.
27.	Brain	All work involving ionizing radiation.
28.	Thyroid	All work involving ionizing radiation.
29.	Leukaemia (excluding chronic lymphatic leukaemia)	All work involving benzene, butadiene, cyclophosphamide, formaldehyde, hepatitis C virus exposure related to occupation, ionizing radiation.
30.	Non-Hodgkin's Lymphoma	All work involving ionizing radiation.

DISEASES OF THE NERVOUS SYSTEM

31.	Parkinson's disease	All work involving manganese.
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32.	Peripheral neuropathy	All work involving metals (such as lead, mercury and arsenic), organic solvents (such as n-hexane, carbon disulphide and trichloroethylene), pesticides (such as organophosphates), acrylamide.
33.	Noise induced hearing loss	All work involving exposure to persistent or intermittent noise above 85dB(A).

RESPIRATORY DISEASES

34.	Occupational asthma (excluding pre-existing asthma worsened due to exposure to workplace irritants)	All work involving sensitising agents or irritants.
35.	Coal workers' pneumoconiosis	All work involving coal.
36.	Asbestosis	All work involving asbestos.
37.	Silicosis	All work involving silica.
38.	Other pneumoconiosis	All work involving exposures known to occasionally cause pneumoconiosis such as beryllium, tin, iron oxide, barium, aluminium, cobalt, tungsten.
39.	Byssinosis	All work involving cotton, flax, hemp, sisal dust.
40.	Extrinsic allergic alveolitis	All work involving damp material of biological origin, such as mouldy hay, straw, grain and feathers.

HEPATIC DISEASES

41.	Non-infectious hepatitis	All work involving agents known to cause hepatitis (particularly organic solvents).
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42. Chronic active hepatitis All work involving contact with human bodily secretions (such as health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces, emergency services worker) – for a person with known Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV), where the HBV or HCV was contracted through employment in such work.
43. Hepatic cirrhosis All work involving contact with human bodily secretions (such as health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces, emergency services worker) – for a person with known HBV or HCV, where the HBV or HCV was contracted through employment in such work.
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SKIN DISEASES

44. Contact dermatitis (irritant and allergic) All work involving sensitising agents or irritants.
45. Occupational vitiligo All work involving para-tertiary-butylphenol, para-tertiary-butylcatechol, para-amyphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone.
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MUSCULOSKELETAL DISEASES

46. Raynaud's disease All work involving vibration from powered tools and equipment.
47. Bursitis (at the elbow or knee) All work involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee.

ACUTE POISONING/TOXICITY

48. Acute poisoning / toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)
- All work involving acrylonitrile, alcohols, antimony, arsenic, benzene, beryllium, cadmium, carbon disulphide, chromium, copper, fluorine, glycols, hexane, ketones, lead, manganese, mercury, mineral acids, nitroglycerine or other nitric acid esters, osmium, oxides of nitrogen, ozone, pesticides consisting of organophosphate and organochlorine compounds, herbicides and related compounds, pharmaceutical agents, phosgene, phosphorus, selenium, styrene, thallium, tin, toluene, vanadium, zinc, chemical asphyxiants (such as carbon monoxide, hydrogen cyanide, hydrogen sulphide, methylene chloride), benzoquinone and other corneal irritants, toxic halogen derivatives of aliphatic or aromatic hydrocarbons, toxic nitro- and amino-derivatives of benzene, and other less common, specific substances known to result in poisoning/toxicity that have not been named here.
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Schedule 2A Catastrophic injury

regulation 11A

Division 1 Preliminary

1 Definition

In this Schedule:

FIM(TM) instrument means the *Guide for the Uniform Data Set for Medical Rehabilitation, 1996*.

Division 2 Prescribed injuries

2 Spinal cord injury

(1) The eligibility criteria for a permanent spinal cord injury resulting in a permanent neurological deficit suffered by a person are:

- (a) the permanent neurological deficit is classified as grade A, B, C or D on the ASIA impairment scale, as assessed under the ISNCSCI; and
- (b) the injury has resulted in a residual significant impact on the function of the autonomic nervous system, evidenced by a score of 0 for an item relating to bladder, bowel or sexual function, as assessed under the ISAFSCI.

(2) In this clause:

ASIA impairment scale means the scale, known as the American Spinal Injury Association Impairment Scale, used for measuring impairment resulting from a spinal cord injury and published by the American Spinal Injury Association.

ISAFSCI means the document called "International standards to document remaining autonomic function after spinal cord injury", published by the American Spinal Injury Association.

ISNCSCI means the document called "International Standards for Neurological Classification of Spinal Cord Injury", published by the American Spinal Injury Association.

3 Traumatic brain injury

(1) The eligibility criteria for a traumatic brain injury resulting in a permanent impairment suffered by a person are:

(a) any or all of the following apply:

(i) the injury results in post-traumatic amnesia lasting 7 days or more as evidenced by an assessment using an approved scale;

(ii) the person is or was in a coma, other than an induced coma, as determined in accordance with the Glasgow coma scale, for 1 hour or more as a result of the injury;

(iii) brain imaging shows a significant brain abnormality as a result of the injury; and

(b) the person's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using the FIM(TM) instrument.

(2) In this clause:

approved scale, for assessing post-traumatic amnesia, means:

(a) the clinical tool, known as the Westmead Post-traumatic Amnesia Scale, used to assess the period a person suffers post-traumatic amnesia; or

(b) a clinically accepted scale similar to the Westmead Post-Traumatic Amnesia Scale approved by the Agency for this definition.

Glasgow coma scale means the scale, known as the Glasgow coma scale, used for assessing the level of consciousness of a person following a traumatic brain injury, using eye, verbal and motor responses.

4 Amputation of a leg through or above the femur

(1) The eligibility criterion for the amputation of a leg through or above the femur is that the amputation involves the loss of 65% or more of the length of the femur.

- (2) For subclause (1), the percentage of the length of the femur lost must be worked out by:
 - (a) comparing the length of the femur before and after the amputation using X-rays taken before and after the amputation; or
 - (b) if X-rays of the femur are not available – comparing the length of the femur of the amputated leg with the length of the contralateral femur.
- (3) To avoid doubt, the eligibility criterion in subclause (1) may be satisfied even if the person suffers from a personal injury that is the amputation of more than one limb or parts of different limbs.

5 Amputation of more than one limb or parts of different limbs

- (1) The eligibility criteria for the amputation of more than one limb or parts of different limbs are:
 - (a) the amputations involve the loss of 50% or more of the length of each of the person's tibias; or
 - (b) both of the person's upper limbs are amputated at or above the first metacarpophalangeal joint of the thumb and index finger of each hand; or
 - (c) the amputations involve:
 - (i) the loss of 50% or more of the length of one of the person's tibias; and
 - (ii) one of the person's upper limbs being amputated at or above the first metacarpophalangeal joint of the thumb and index finger of the same hand.
- (2) For subclause (1), the percentage of the length of the tibia lost must be worked out by:
 - (a) comparing the length of the tibia before and after the amputation using X-rays taken before and after the amputation; or
 - (b) if X-rays of the tibia are not available – comparing the length of the tibia of the amputated leg with the length of the contralateral tibia; or
 - (c) if the length of the contralateral tibia cannot be determined – using the estimated knee height based on overall height before the amputation.

6 Full thickness burn to all or part of the body

The eligibility criteria for a full thickness burn to all or part of the body are:

- (a) the full thickness burn is to:
 - (i) more than 40% of the total body surface area; or
 - (ii) both hands; or
 - (iii) the face; or
 - (iv) the genital area; and
- (b) the person's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using the FIM(TM) instrument.

7 Inhalation burn resulting in permanent respiratory impairment

The eligibility criterion for an inhalation burn resulting in a permanent respiratory impairment is if the injured person's functional ability as a result of the injury is assessed as 5 or less for a motor or cognitive item using the FIM(TM) instrument.

8 Permanent blindness caused by trauma

- (1) The eligibility criterion for permanent blindness caused by trauma is that the injured person has a visual defect, or a combination of visual defects, that result in visual loss that is, or is equivalent to:
 - (a) visual acuity of less than 6/60 in both eyes, assessed using the Snellen scale after correction by suitable lenses; or
 - (b) the constriction of the person's field of vision to 10 degrees or less of the arc around central fixation in the person's better eye, regardless of corrected visual acuity (equivalent to 1/100 white test object).
- (2) In this clause:

Snellen scale means the scale for measuring visual acuity using rows of letters printed in decreasing sizes.

Schedule 3 Prescribed provisions for compulsory insurance

regulation 15A

The *Return to Work Act 1986* (the **Act**) requires that every employer obtain a Policy of Insurance or Indemnity from an insurer approved by the Work Health Authority (the **Authority**). The cover must be for the full amount of the employer's liability under the Act and not less than \$2 000 000 in respect of the employer's liability independently of the Act for an injury to one of the employer's workers.

The (the **Insurer**) is an insurer approved by the Authority.

The Insured (the **Employer**) described in the Schedule to this Policy is carrying on business in the Northern Territory. The Employer has made a written proposal and declaration to the Insurer. That proposal and declaration contain the particulars and statements which the Employer and Insurer agree are the basis of this Policy and form part of this Policy.

This Policy covers only the business or occupation described in the Schedule unless details of another business or occupation have been supplied to the Insurer and the Insurer has confirmed its acceptance of the extension of the Policy by endorsing the Schedule accordingly.

The premium that the Employer must pay the Insurer and the policy period are set out in the Schedule. The premium is subject to adjustment as set out in the Conditions below.

If the Employer is liable during the policy period to pay compensation to or in respect of one of the Employer's workers (or a person who is deemed by the Act to be one of the Employer's workers) for an injury to the worker in his or her employ, the Insurer will indemnify the Employer for:

- (a) the full amount of the Employer's liability under the Act; and
- (b) the full amount of the Employer's liability independently of the Act up to \$2 000 000; and
- (c) any costs and expenses incurred with the Insurer's written consent in connection with the defence of legal proceedings in which that liability is alleged.

The Employer's right to indemnity is subject to:

- (a) the provisions of the Act and its subordinate Rules and Regulations, all of which are deemed to form part of the Policy; and
- (b) the fulfilment by the Employer of the Conditions set out below.

Conditions

1 Notices

Every notice or communication to be given or made under this Policy must be delivered in writing at the office of the Insurer from which the Policy was issued.

2 Claims

The Employer must give notice to the Insurer of any injury to which the policy relates as soon as the Employer (or the Employer's representative) receives information about the happening of an injury or about any incapacity arising from an injury. The Employer must also immediately send to the Insurer every written notice of claim, conferences or proceedings and all information about any verbal notice of claim, conferences or proceedings.

3 Employer not to make admissions

The Employer must not, without the written authority of the Insurer, incur any litigation expense, or make any payment, settlement or admission of liability, in respect of an injury to or claim made by a worker.

4 Defence of proceedings

The Insurer is entitled to use the name of the Employer in respect of anything indemnified under this Policy, including the bringing, defending, enforcing or settling of legal proceedings for the benefit of the Insurer. The Employer must give all information and assistance, and forward all documents, to enable the Insurer to settle or resist a claim as the Insurer thinks fit.

5 Subrogation

The Insurer is entitled to use the name of the Employer in proceedings to enforce, for the benefit of the Insurer, an order for costs or other remedy. The Insurer is entitled to be subrogated to all rights that the Employer may have against any

persons who may be responsible in relation to a claim for an injury covered by the Policy. The Employer must execute all necessary documents for the purpose of vesting such rights in the Insurer.

6 Precautions

The Employer must take all reasonable precautions to prevent injuries.

7 Injury

If a worker is injured in connection with ways, works, machinery or plant, then so far as practicable, no alteration or repair may be made without the consent of the Insurer until the Insurer has had an opportunity of examining them.

8 Inspection

The Insurer has the right and opportunity at all reasonable times to inspect the works, machinery, plant and appliances used in the Employer's business.

9 Premium

Premiums will be regulated by the amount of wages, salaries and all other forms of remuneration paid or allowed to workers during each policy period.

10 Wages books must be kept

The name and earnings of every worker employed by the Employer must be entered regularly in a proper wages book so that a record exists of the Employer's workers.

11 Adjustment of premium

The Employer must at all times allow a person authorised by the Insurer to inspect the wages book. Within 28 days after the end of a policy period, the Employer must also supply the Insurer with a correct account of all wages, salaries and other forms of remuneration paid or allowed during that policy period. If the total amount differs from the amount on which premium has been paid, the difference in premium will be met by either further payment to the Insurer or a refund by the Insurer, subject to the Insurer's retention of the minimum premium as stated in the proposal.

12 Assignment

No assignment of interest under this Policy will bind the Insurer unless the written consent of the Insurer is endorsed on the Policy.

13 Cancellation of Policy

The Insurer may, at the request of the Employer, cancel the Policy by giving written notice to the Employer if the Insurer is satisfied that the Employer does not require this Policy for any of the following circumstances:

- (a) the Employer is no longer employing a worker as defined by the Act;
- (b) there are no Territory workers required to be covered by the Act;
- (c) the employer has another Policy with an Approved Insurer covering the same liability.

The notice of cancellation must be posted to the Employer and cancellation will be effective from the date of the request of the cancellation or the date specified for cancellation (if that date is a later date) or the date from which another Policy with an Approved Insurer is incepted; whichever occurs first.

In any other circumstance cancellation will not be effective unless prior consent of the Authority is obtained.

Despite the cancellation of the Policy, the Employer must give the Insurer a statement of wages showing the amount paid up to the time of cancellation. The premium for the period of insurance prior to the cancellation will be adjusted on a pro rata basis in the manner set out in condition 11 of this Policy.

14 No waiver of conditions

A condition or provision of this Policy cannot be waived or altered except with the prior consent of the Insurer as endorsed on the Policy. Notice to an agent, or knowledge of an agent or any other person, will not be taken to effect a waiver or alteration of a condition in this policy.

Schedule 4 Infringement notice offences and prescribed amounts

regulation 19

Provision	Prescribed amount in penalty units (individual)	Prescribed amount in penalty units (body corporate)
<i>Return to Work Act 1986</i>		
section 7KD(1)	3	15
section 75A(4)	4	20
section 103H(1) or (2)	2	10
section 126AA(1)	4	20
section 130(2)	1	5

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

2**LIST OF LEGISLATION*****Work Health Regulations (SL No. 49, 1986)***

Notified	23 December 1986
Commenced	1 January 1987 (r 2)

Amendments of the Work Health Regulations (SL No. 48, 1987)

Notified	23 December 1987
Commenced	23 December 1987

Amendments of Work Health Regulations (SL No. 5, 1989)

Notified	1 March 1989
Commenced	1 March 1989

Amendment of Work Health Regulations (SL No. 56, 1990)

Notified	21 December 1990
Commenced	21 December 1990

Amendments of Work Health Regulations (SL No. 25, 1991)

Notified	12 June 1991
Commenced	12 June 1991

Amendment of Work Health Regulations (SL No. 77, 1991)

Notified	20 December 1991
Commenced	20 December 1991

Amendments of Work Health Regulations (SL No. 32, 1992)

Notified	8 July 1992
Commenced	8 July 1992

Amendment of Work Health Regulations (SL No. 22, 1993)

Notified	11 August 1993
Commenced	11 August 1993

Amendments of Work Health Regulations (SL No. 50, 1993)

Notified 22 December 1993
 Commenced 22 December 1993

Amendments of Work Health Regulations (SL No. 11, 1996)

Notified 13 March 1996
 Commenced 13 March 1996

Amendment of Work Health Regulations (SL No. 38, 1996)

Notified 7 August 1996
 Commenced 7 August 1996

Amendment of Work Health Regulations (SL No. 29, 1997)

Notified 12 November 1997
 Commenced 12 November 1997

Amendments of Work Health Regulations (SL No. 4, 1999)

Notified 10 March 1999
 Commenced 10 March 1999

Amendments of Work Health Regulations (SL No. 39, 2000)

Notified 30 June 2000
 Commenced 30 June 2000

Commercial Passenger (Road) Transport (Consequential Amendments) Act 2003 (Act No. 41, 2003)

Assent date 7 July 2003
 Commenced 1 August 2003 (Gaz G30, 30 July 2003, p 2)

Statute Law Revision Act (No. 2) 2003 (Act No. 44, 2003)

Assent date 7 July 2003
 Commenced 7 July 2003

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
 Commenced 17 March 2004 (Gaz G11, 17 March 2004, p 8)

Statute Law Revision Act 2004 (Act No. 18, 2004)

Assent date 15 March 2004
 Commenced 5 May 2004 (s 2(1), s 2 Associations Act 2003 (Act No. 56, 2003) and Gaz G18, 5 May 2004, p 2)

Work Health Amendment (Medical Certificates) Regulations 2005 (SL No. 31, 2005)

Notified 21 September 2005
 Commenced 21 September 2005

Work Health Amendment Regulations 2007 (SL No. 19, 2007)

Notified 1 August 2007
 Commenced 1 August 2007

Law Reform (Work Health) Amendment Act 2007 (Act No. 30, 2007)

Assent date 12 December 2007
 Commenced 1 July 2008 (Gaz S29, 25 June 2008)

Statute Law Revision Act 2009 (Act No. 25, 2009)

Assent date 1 September 2009
 Commenced 16 September 2009 (*Gaz G37*, 16 September 2009, p 3)

Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)

Assent date 20 May 2010
 Commenced 1 July 2010 (s 2)

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

Assent date 18 November 2010
 Commenced 1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz G7*, 16 February 2011, p 4)

Work Health and Safety (National Uniform Legislation) Consequential Amendments Regulations (SL No. 60, 2011)

Notified 30 December 2011
 Commenced 1 January 2012 (r 2)

Workers Rehabilitation and Compensation Amendment Act 2012 (Act No. 16, 2012)

Assent date 27 April 2012
 Commenced 1 July 2012 (*Gaz G22*, 30 May 2012, p 6)

Health Practitioner (National Uniform Legislation) Implementation Act 2012 (Act No. 17, 2012)

Assent date 22 May 2012
 Commenced 1 July 2012 (s 2)

Workers Rehabilitation and Compensation Legislation Amendment Act 2015 (Act No. 9, 2015)

Assent date 23 April 2015
 Commenced ss 3, 4, 5, 24, 25 and pt 4: 22 May 2015; rem: 1 July 2015: (*Gaz S50*, 22 May 2015)

Return to Work Legislation Amendment Act 2015 (Act No. 25, 2015)

Assent date 18 September 2015
 Commenced 1 October 2015 (*Gaz S98*, 30 September 2015)

Return to Work Amendment Regulations 2016 (SL No. 26, 2016)

Notified 1 July 2016
 Commenced 1 July 2016

Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018 (Act No. 28, 2018)

Assent date 30 November 2018
 Commenced 1 December 2018 (s 2)

Return to Work Legislation Amendment Act 2020 (Act No. 21, 2020)

Assent date 1 July 2020
 Commenced 29 July 2020 (*Gaz G28*, 15 July 2020, p 1)

Justice and Licensing Legislation Further Amendment Act 2022 (Act No. 21, 2022)

Assent date 31 October 2022
 Commenced pt 3: 1 February 2023; rem: 21 December 2022 (*Gaz G50*,
 21 December 2022, p 1)

Return to Work Amendment Regulations 2024 (SL No. 9, 2024)

Date made 11 June 2024
 Commenced 12 June 2024 (r 2)

3 SAVINGS AND TRANSITIONAL PROVISIONS

s 89 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*
 (Act No. 1, 2004)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: rr 1, 3A, 11, 16 and 21 and sch 3 and 4.

5 LIST OF AMENDMENTS

r 1 amd Act No. 30, 2007, s 59; Act No. 9, 2015, s 25
 r 3 rep No. 4, 1999, r 2
 ins Act No. 25, 2015, s 51
 amd Act No. 21, 2020, s 24; No. 9, 2024, r 4
 r 3AA ins Act No. 25, 2015, s 51
 r 3A ins No. 48, 1987, r 1
 amd No. 5, 1989, r 1; No. 25, 1991, r 1
 sub No. 77, 1991
 amd No. 32, 1992, r 1; No. 38, 1996; No. 29, 1997; No. 4, 1999, r 3; No. 39,
 2000, r 1; Act No. 41, 2003, s 6; No. 19, 2007, r 3; Act No. 25, 2009, s 11; Act
 No. 16, 2012, s 13; Act No. 25, 2015, s 52; Act No. 21, 2020, s 25
 r 4 sub No. 25, 1991, r 2
 amd Act No. 16, 2012, s 17; Act No. 21, 2020, s 26
 r 4A ins No. 25, 1991, r 2; No. 39, 2000, r 2
 rep No. 32, 1992, r 2
 amd Act No. 1, 2004, s 63; Act No. 16, 2012, s 17
 sub Act No. 21, 2020, s 27
 r 5 rep No. 32, 1992, r 2
 ins No. 50, 1993, r 2
 amd No. 4, 1999, r 4; Act No. 16, 2012, s 17; Act No. 21, 2020, s 28
 rr 5AA – 5AB ins Act No. 25, 2015, s 53
 r 5A ins No. 60, 2011, r 22
 r 5B ins Act No. 9, 2015, s 26
 amd Act No. 21, 2020, s 29; No. 9, 2024, r 5
 r 5C ins Act No. 9, 2015, s 26
 r 6 amd No. 48, 1987, r 2; Act No. 44, 2003, s 6; Act No. 16, 2012, s 17; Act
 No. 9, 2015, s 27
 r 6AA ins Act No. 9, 2015, s 28
 amd Act No. 25, 2015, s 54
 r 6A ins Act No. 16, 2012, s 14

ENDNOTES

r 7	amd No. 48, 1987, r 3; No. 5, 1989, r 2; No. 56, 1990, r 1 rep No. 32, 1992, r 2
r 8	amd No. 4, 1999, r 5; Act No. 16, 2012, s 17
r 9	amd No. 22, 1993; No. 50, 1993, r 3; Act No. 16, 2012, s 17 rep Act No. 9, 2015, s 29
r 10	amd No. 48, 1987, r 4 rep No. 4, 1999, r 6
r 11	sub No. 50, 1993, r 4 amd Act No. 40, 2010, s 202
r 11A	ins Act No. 21, 2020, s 30
r 12	amd No. 4, 1999, r 7 sub No. 31, 2005, r 3 amd Act No. 18, 2010, s 89; Act No. 17, 2012, s 55; Act No. 9, 2015, s 30; Act No. 28, 2018, s 25; Act No. 21, 2020, s 35
r 13	amd No. 50, 1993, r 5; No. 11, 1996, r 1 sub No. 4, 1999, r 8
r 14	sub Act No. 16, 2012, s 15
r 14A	ins No. 50, 1993, r 6 sub No. 4, 1999, r 9 amd Act No. 16, 2012, s 17
r 14B	ins No. 50, 1993, r 6 rep No. 4, 1999, r 9
r 15	amd Act No. 16, 2012, s 17 sub Act No. 25, 2015, s 55
r 15A	ins Act No. 25, 2015, s 55
r 16	amd No. 4, 1999, r 10; Act No. 18, 2004, s 3; Act No. 16, 2012, s 17
r 17	amd Act No. 16, 2012, s 17
r 17A	ins No. 48, 1987, r 5 sub Act No. 16, 2012, s 16
rr 17B – 17C	ins Act No. 21, 2020, s 31
r 18	amd Act No. 21, 2020, s 32
rr 19 – 24	amd Act No. 25, 2015, s 56
sch	amd No. 48, 1987, r 6; No. 5, 1989, r 3; No. 56, 1990, r 2; No. 32, 1992, r 2; No. 50, 1993, r 7; No. 11, 1996, r 2 rep No. 4, 1999, r 11
sch 1	ins Act No. 25, 2015, s 56 amd Act No. 21, 2022, s 13
sch 2	ins Act No. 25, 2015, s 56 sub No. 26, 2016, r 3 amd Act No. 21, 2020, s 33
sch 2A	ins Act No. 21, 2020, s 34
sch 3	ins Act No. 25, 2015, s 56 sub Act No. 21, 2020, s 34
sch 4	ins Act No. 25, 2015, s 56