**NORTHERN TERRITORY OF AUSTRALIA**

**WORK HEALTH ADMINISTRATION ACT 2011**

As in force at 1 July 2024

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# NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 July 2024

## WORK HEALTH ADMINISTRATION ACT 2011

**An Act to provide for the Work Health Authority and Work Health Court**

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Work Health Administration Act 2011*.

### 2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

### 3 Definitions

In this Act:

***Authority*** means the Work Health Authority under section 4.

***Court*** means the Work Health Court under section 12.

***court rules*** means rules made under section 31.

***Judge*** means a Local Court Judge.

***judicial registrar*** means a person appointed under section 23.

***managing Judge*** means the Judge appointed under section 21.

***registrar*** means the person appointed under section 22.

*Note for section 3*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

# Part 2 Work Health Authority

## 4 Work Health Authority

(1) The Work Health Authority under section 7 of the *Workplace Health and Safety Act 2007* as in force immediately before the commencement of this section is continued.

(2) The Authority:

(a) is a body corporate with perpetual succession; and

(b) may own and deal with property; and

(c) may sue and be sued.

(3) The Authority is constituted by:

(a) the person appointed under subsection (4); or

(b) if there is no person as mentioned in paragraph (a), and no person appointed under section 44A of the *Interpretation Act 1978* to act in that position – the Chief Executive Officer.

(4) The Minister may appoint a person to constitute the Authority.

## 5 Functions of the Authority

(1) The Authority has the following functions:

(a) to be the regulator under the *Work Health and Safety (National Uniform Legislation) Act 2011*;

(b) the functions conferred on it under the *Return to Work Act 1986*;

(c) any other function conferred on it under any Act.

(2) The Authority has the powers necessary to perform its functions.

## 6 Minister may give directions to Authority

(1) In exercising powers or performing functions, the Authority is subject to the written directions of the Minister.

(2) A copy of a direction given under subsection (1) in a financial year must be included in the Authority's report for the year prepared under section 7.

## 7 Annual report

(1) At the end of each financial year, the Authority must prepare a report about the Authority's activities during that year.

(2) Without limiting subsection (1), the report must contain details about:

(a) the Authority's activities as the regulator under the *Work Health and Safety (National Uniform Legislation) Act 2011* during that year; and

(b) the Authority's activities under the *Return to Work Act 1986* during that year; and

(c) any other matter directed by the Minister to be included.

(3) The Authority must, by 31 October following the end of that year, give the report to the Minister.

(4) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after receiving the report.

## 8 Common seal

(1) The Authority must have a common seal.

(2) The seal must not be used except with the authority of the Authority.

(3) A document purporting to bear the common seal of the Authority is taken to have been duly executed by the Authority, in the absence of evidence to the contrary.

## 9 Authority excluded matter under Corporations Act 2001

The Authority is declared to be an excluded matter for the purposes of section 5F of the Corporations Act 2001 in relation to the whole of the Corporations legislation.

## 10 Staff and facilities

The Chief Executive Officer must provide the Authority with staff and facilities to enable it to properly perform its functions.

### 11 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

(a) the person appointed to constitute the Authority;

(b) a member of the staff of the Authority.

(2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the Authority in the exercise of a power or performance of a function under this Act.

(3) Subsections (1) and (2) do not affect any liability the Territory or the Authority would, apart from those subsections, have for the act or omission.

(4) In this section:

***exercise***, of a power, includes the purported exercise of the power.

***performance***, of a function, includes the purported performance of the function.

## Part 3 Work Health Court

## Division 1 Establishment and jurisdiction

### 12 Work Health Court

(1) The Work Health Court under Part 6 of the *Workers Rehabilitation and Compensation Act 1986* as in force immediately before the commencement of this section is continued.

(2) The Court is a court of record.

(3) The Court has a seal that must be applied electronically or manually to all process issued out of the Court.

### 13 Constitution of Court

The Court may be constituted by:

(a) a Judge sitting alone; or

(b) the registrar exercising a power under section 22(2); or

(c) a judicial registrar exercising powers under section 23(2).

## 14 Jurisdiction of Court

The Court has the following jurisdiction:

(a) under the *Return to Work Act 1986*, to hear and determine:

(i) claims for compensation under Part 5 of that Act; and

(ii) all other matters required or permitted by that Act to be referred to the Court for determination;

(b) under the *Work Health and Safety (National Uniform Legislation) Act 2011*, to hear and determine:

(i) all applications made to the Court under that Act; and

(ii) all other matters required or permitted by that Act to be dealt with by the Court;

(ba) under the *Electrical Safety Act 2022*, to hear and determine:

(i) all applications made to the Court under section 214 of that Act; and

(ii) all other matters required or permitted by that Act to be dealt with by the Court;

(c) to determine all matters and questions incidental to, or arising out of, matters before the Court;

(d) any other jurisdiction conferred on it under any Act.

## 15 General powers of Court

(1) For a proceeding before the Court, the Court has all of the powers that the Local Court has under the *Local Court Act 2015* and *Local Court (Civil Procedure) Act 1989* in relation to a proceeding before that court in its civil jurisdiction.

(2) This section applies in relation to a matter only to the extent that the matter is not specifically provided for in this or any other Act or the court rules.

(3) The powers under subsection (1) are in addition to powers conferred on the Court under this or any other Act.

## 16 Court may decline to deal with matter if frivolous etc.

The Court may decline to deal with, or to continue dealing with, any proceeding if satisfied the proceeding is frivolous, vexatious or was not made in good faith.

### 17 Examination of witnesses

(1) For a proceeding before the Court, the Court may do either or both of the following:

(a) order the examination on oath of a person, orally or in writing, before the Court, an officer of the Court or any other person, at any place in Australia;

(b) order a commission or letters of request to be issued to take evidence.

(2) The Court may give any directions it considers appropriate to enable effect to be given to an order under subsection (1).

(3) Evidence taken under an order under subsection (1) may be admitted in a proceeding before the Court on such terms as the Court considers appropriate.

### 18 Enforcement of orders for payment of money

(1) This section applies if the Court makes an order awarding an amount of money to a person (the ***recipient***) and the amount is not paid as required by the order.

(2) On application by or on behalf of the recipient, the registrar must issue a certificate certifying that the order has not been complied with and the amount that is outstanding.

(3) The certificate may be filed in the Local Court.

(4) On the filing of the certificate in the Local Court, a registrar of the Local Court must enter judgment for the recipient as if the order were a judgment of the Local Court for payment to the recipient of:

(a) the amount certified as being outstanding; and

(b) the amount of any fees paid:

(i) under this Act to obtain the certificate; or

(ii) under the *Local Court Act 2015* for the filing of the certificate and entering of judgment.

## 19 Contempt of Court

(1) A person who has been served with a summons to attend before the Court to give evidence or to produce documents or other things commits a contempt of the Court if, without reasonable excuse, the person:

(a) does not attend as required by the summons; or

(b) does not continue to attend until released by the Court from further attendance.

(2) A person appearing before the Court as a witness commits a contempt of the Court if, without reasonable excuse, the person does not do any of the following when required by the Court to do so:

(a) take an oath;

(b) answer a question;

(c) produce a document or other thing.

(3) A person commits a contempt of the Court if:

(a) the Court has made an order requiring the person to do or not do something; and

(b) the order:

(i) was made orally to the person while the person was in the courtroom; or

(ii) has been served on the person; and

(c) the person does not comply with the order; and

(d) no other law of the Territory provides a means for punishing non-compliance with, or enforcing, the order.

(4) A person commits a contempt of the Court if, without reasonable excuse, the person fails to comply with an undertaking the person has given to the Court.

(5) A person commits a contempt of the Court if the person:

(a) wilfully prevaricates in the face of the Court; or

(b) engages in any other conduct that, under a law of the Territory, constitutes a contempt in the face of the Court.

## 20 Dealing with contempt of Court

(1) If it appears to the Court that a person has committed a contempt of the Court, the Court may:

(a) for a contempt in the face of the Court – orally order that the person be arrested and brought before the Court; or

(b) for any contempt:

(i) issue a warrant to have the person arrested and brought before the Court; or

(ii) issue a summons requiring the person to appear before the Court.

(2) When the person is brought or appears before the Court, the Court:

(a) must inform the person of the contempt with which the person is charged; and

(b) may deal with the person in accordance with any procedure the Court thinks fit.

(3) The *Bail Act 1982* applies in relation to the person as if the person were accused of an offence and were being held in custody for that offence.

(4) The Court constituted by the registrar or a judicial registrar:

(a) cannot exercise the Court's powers under this section and section 20A; but

(b) may refer the alleged contempt to the Court constituted by a Judge.

(5) The Court constituted by a Judge may exercise those powers in relation to the alleged contempt.

## 20A Punishment for contempt

(1) If the Court finds a person guilty of a contempt of the Court, it may order that the person be imprisoned for not more than 6 months or be fined not more than an amount equal to 100 penalty units.

(2) A person cannot be punished, in respect of the same conduct, for a contempt and for an offence against another Act.

(3) If the Court orders that the person be imprisoned, the Court may order that the person be discharged before the end of the term of imprisonment that was ordered.

(4) If a person who has been found guilty of a contempt apologises to the Court for the contempt, the Court may amend or cancel any order imposing punishment for the contempt, and if it does so may order the refund of all or part of any fine that has been paid.

## Division 2 Managing Judge, registrars and other officers of the Court

### 21 Managing Judge

(1) The Chief Judge must appoint a Judge to be the managing Judge for the Court.

(2) The managing Judge has the functions conferred under the court rules or any other Act.

### 22 Registrar

(1) The Chief Judge must appoint a person to be the registrar of the Court.

(2) The registrar:

(a) may exercise such powers of the Court as are determined by the Chief Judge; and

(b) has any other functions conferred under the court rules or any other Act.

(3) In performing a function under subsection (2), the registrar is subject to the directions of the Chief Judge.

### 23 Judicial registrars

(1) The Chief Judge may appoint one or more persons to be judicial registrars of the Court.

(2) A judicial registrar:

(a) may exercise such powers of the Court as are determined by the Chief Judge; and

(b) has any other functions conferred under the court rules or any other Act.

(3) In performing a function under subsection (2), a judicial registrar is subject to the directions of the Chief Judge.

### 24 Assistant registrars

(1) Each registrar of the Local Court is an assistant registrar of the Court (unless the person is the registrar or a judicial registrar).

(2) An assistant registrar:

(a) may exercise such powers of the registrar as are determined by the registrar; and

(b) has any other functions conferred under the court rules or any other Act.

(3) In performing a function under subsection (2), an assistant registrar is subject to the directions of the registrar and Chief Judge.

### 25 Other officers of the Court

(1) The Minister may appoint other officers of the Court as the Minister considers appropriate.

(2) An officer appointed under subsection (1) has the functions conferred under the court rules or any other Act.

(3) In performing a function under subsection (2), the officer is subject to the directions of the Chief Judge.

### 26 Staff and facilities

The Chief Executive Officer must provide the Court with staff and facilities to enable it to properly perform its functions.

## Division 3 Procedure and administrative matters

### 27 Procedure

(1) Subject to any Act and the court rules, the Court may regulate its own procedure.

(2) The Court may extend or abridge a time prescribed under an Act as the Court considers appropriate.

### 28 Representation before Court

(1) A party to a proceeding before the Court may:

(a) appear personally; or

(b) be represented by:

(i) a legal practitioner; or

(ii) a person whom the Court is satisfied is acting on behalf, and at the request, of the party.

(2) A person representing a party to a proceeding before the Court has the same protection and immunity as a legal practitioner representing a party in a proceeding before the Local Court.

**29 Witnesses**

Subject to any other Act, a witness summoned to attend or appearing before the Court has the same obligations and protection, and is subject to the same liabilities, as a witness in a proceeding before the Local Court.

**30 Register of proceedings**

(1) The registrar must maintain a register of all proceedings commenced in the Court.

(2) The register must be maintained in the form and manner determined by the Chief Judge.

**30A Court records and exhibits**

Part 4, Division 2 of the *Local Court Act 2015* applies as if:

(a) a reference to the principal registrar were a reference to the registrar; and

(b) a reference to proceedings in the Local Court were a reference to a proceeding before the Court.

**31 Court rules**

(1) The Chief Judge may make rules as follows:

(a) prescribing the functions and powers of officers of the Court;

(b) for the awarding and taxation of costs (including disbursements and witnesses' expenses);

(c) prescribing scales of costs;

(d) forms to be used in proceedings before the Court;

(e) for the practice and procedure of the Court, including the practice and procedures of the registry.

(2) An amount provided for a matter in a scale of costs under subsection (1)(c) must not exceed the amount prescribed for the same or a similar matter in a scale of costs under the *Supreme Court Act 1979*.

(3) The Chief Judge may give practice directions for the practice and procedure of the Court, including the practice and procedures of the registry.

# Part 4 General matters

## 32 Regulations

(1) The Administrator may make regulations under this Act.

(2) The regulations may prescribe fees payable under this Act.

# Part 5 Transitional provisions for Work Health Administration Act 2011

## 33 Relationship with other Acts

(1) This Part does not limit the operation of Part III of the *Interpretation Act 1978*.

(2) This Part has effect subject to:

(a) the *Work Health and Safety (National Uniform Legislation) Act 2011* (including any regulations made under that Act); and

(b) any regulations made under section 32 of the *Work Health and Safety (National Uniform Legislation) Implementation Act 2011*.

## 34 Work Health Authority – continuation of acts, matters and things

(1) If an act, matter or thing relating to the Authority as constituted under section 7 of the old WHS Act is in existence, force or operation immediately before commencement, on commencement it becomes an act, matter or thing in existence, force or operation in relation to the Authority as constituted under section 4 of this Act.

(2) In this section:

***commencement*** means the commencement of this section.

***old WHS Act*** means the *Workplace Health and Safety Act 2007* as in force from time to time before commencement.

**35 Work Health Court – continuation of appointments, proceedings etc.**

(1) A person holding office as the registrar, a judicial registrar, an assistant registrar or any other officer of the Court under the old Part 6 immediately before commencement, continues to hold that office as if he or she had been appointed under Part 3, Division 2 of this Act.

(2) All proceedings before the Court immediately before commencement, continue and are not affected by the enactment of this Act or repeal of the old Part 6.

(3) Court rules made under the old Part 6 and in force immediately before commencement, continue as rules under section 31 of this Act.

(4) If an act, matter or thing relating to the Court as constituted under the old Part 6 is in existence, force or operation immediately before commencement, on commencement it becomes an act, matter or thing in existence, force or operation in relation to the Court as constituted under section 12 of this Act.

(5) In this section:

***commencement*** means the commencement of this section.

***old Part 6*** means Part 6 of the *Workers Rehabilitation and Compensation Act 1986* as in force from time to time before commencement.

# ENDNOTES

## 1 KEY

Key to abbreviations

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

## 2 LIST OF LEGISLATION

***Work Health Administration Act 2011* (Act No. 37, 2011)**
Assent date 14 December 2011
Commenced 1 January 2012 (*Gaz* S78, 30 December 2011)

***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)

***Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016)**
Assent date 6 April 2016
Commenced 1 May 2016 (*Gaz* S34, 29 April 2016)

***Justice and Other Legislation Amendment (Records of Depositions and Other Matters) Act 2016* (Act No. 16, 2016)**
Assent date 8 June 2016
Commenced 1 July 2016 (*Gaz* S59, 1 July 2016)

***Statute Law Revision Act 2018* (Act No. 10, 2018)**
Assent date 23 May 2018
Commenced 20 June 2018 (*Gaz* S41, 20 June 2018)

***Courts Legislation Amendment Act 2020* (Act No. 1, 2020)**
Assent date 9 March 2020
Commenced 10 March 2020 (s 2)

***Statute Law Revision Act 2020* (Act No. 26, 2020)**
Assent date 19 November 2020
Commenced 20 November 2020 (s 2)

***Electrical Safety Act 2022*** **(Act No. 3, 2022)**

| | |
|---|---|
| Assent date | 14 April 2022 |
| Commenced | 1 July 2024 (s 2(2)) |

## 3 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: ss 1, 3, 4, 5, 7, 14, 15, 18, 20, 30A, 31, 33, 34 and 35.

## 4 LIST OF AMENDMENTS

| | |
|---|---|
| s 3 | amd No. 9, 2016, s 150 |
| s 4 | amd No. 10, 2018, s 6; No. , 2020, s 3 |
| s 5 | amd No. 9, 2015, 31 |
| s 7 | amd No. 9, 2015, 31 |
| s 12 | amd No. 1, 2020, s 19 |
| s 13 | amd No. 9, 2016, s 152 |
| s 14 | amd No. 9, 2015, 31; No. 3, 2022, s 297 |
| s 15 | amd No. 9, 2016, s 152 |
| s 18 | amd No. 9, 2016, s 152 |
| ss 19 – 20 | sub No. 9, 2016, s 151 |
| s 20A | ins No. 9, 2016, s 151 |
| pt 3 | |
| div 2 hdg | amd No. 9, 2016, s 152 |
| ss 21 – 25 | amd No. 9, 2016, s 152 |
| s 28 | amd No. 9, 2016, s 152 |
| ss 30 – 31 | amd No. 9, 2016, s 152 |
| s 30A | ins No. 16, 2016, s 8 |
| s 31 | amd No. 9, 2016, s 152 |