

NORTHERN TERRITORY OF AUSTRALIA

WORK HEALTH REGULATIONS

As in force at 12 November 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 12 November 1997

WORK HEALTH REGULATIONS

Regulations under the *Work Health Act*

1 Citation

These Regulations may be cited as the *Work Health Regulations*.

2 Commencement

These Regulations shall come into operation on 1 January 1987.

3 Forms

A reference in these Regulations to a form by number is a reference to the form so numbered in the Schedule.

3A Definition of *worker*

- (1) For the purposes of paragraph (b) of the definition of ***worker*** in section 3 of the Act:
 - (a) a member of the operations branch of St. John Ambulance Australia (N.T.) Inc.;
 - (aa) a person complying with a summons served on the person in pursuance of the *Juries Act* or while serving as a juror under that Act;
 - (b) a natural person who is authorised by a club, within the meaning of Part III of the *Racing and Betting Act*, to ride or drive a horse or pony for a fee or reward or provide services as a stablehand on a racecourse licensed under that Part, while the person is so engaged (whether or not on a racecourse); and
 - (c) a natural person who is engaged to drive a taxi, private hire car or motor omnibus, within the meaning of the *Commercial Passenger (Road) Transport Act*, 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 the purposes of this regulation,

while the person is so engaged,

are persons prescribed as workers within the meaning of that definition.

(2) For the purposes of paragraph (g) of the definition of **worker** in section 3 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;

(b) a person operating as a direct selling agent under an agency agreement approved by the Authority for the purposes of this regulation;

(c) a person registered as a foster parent under the *Community Welfare Act* caring for a child placed in the person's custody under an agreement under that Act; 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 within the meaning of that definition.

4 Prescribed member of family

For the purposes of section 3(2) of the Act, a husband or wife (including a de facto husband or wife), 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.

5 Prescribed amount

For the purposes of section 3(10)(d) of the Act, the prescribed amount is 65% of the annual equivalent of average weekly earnings.

6 Funeral benefit and application for determination of entitlement to an amount of death benefit

- (1) For the purposes of section 62(1)(a)(ii) of the Act, the prescribed amount is 10% of the annual equivalent of average weekly earnings.

8 Compensation for certain volunteers

For the purposes of section 66 of the Act, compensation shall be 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 ordinary time rate of pay or 50% of average weekly earnings, whichever is the greater amount.

9 Guides to evaluation of permanent impairment

- (1) For the purposes of the definition of ***permanent impairment*** in section 70 of the Act, the American Medical Association Guides to the Evaluation of Permanent Impairment (4th edition) are the prescribed guides.
- (2) The Authority shall keep at its office in Darwin a copy of the prescribed guides and allow any person, during the normal business hours of the office, to examine the copy at its office.

10 Claims

The relevant Form 2 or Form 3 is the prescribed form for the purposes of section 82(1)(a).

11 Declarations

Declarations required or permitted to be made by or under the Act may be made before a person before whom a statutory declaration may be made under the *Oaths Act*.

12 Medical certificate accompanying claim

- (1) Form 4 is the prescribed certificate for the purposes of section 82(1)(b) of the Act.
- (2) Subject to subregulation (3), a certificate referred to in subregulation (1) shall be signed by a medical practitioner.
- (3) Where because of isolation a medical practitioner is not reasonably available to sign a certificate referred to in subsection (1), a practitioner registered under the *Health Practitioners and Allied Professionals Registration Act* in the category of Aboriginal health work or a nurse, within the meaning of the *Nursing Act*, may sign

the certificate.

- (4) A certificate signed in pursuance of subregulation (3) has effect only in respect of:
 - (a) where the certificate is signed after consultation by radio, telephone or other means with a medical practitioner – 14 days; and
 - (b) in any other case – 3 days.

13 Statement of right to commence proceedings before court

- (1) Form 5 is the prescribed form for the purposes of sections 69(1)(b) and 85(8) of the Act.
- (2) Where the employer gives to the worker a completed form in accordance with Form 5, he or she shall also provide the worker with a copy of the completed form.
- (3) Where the employer gives to the worker a completed form in accordance with Form 5, he or she shall also provide the worker with a copy of the approved information bulletin relating to the mediation process.

14 Late payment of weekly payments

For the purposes of the formula in section 89 of the Act, 20% is the prescribed rate of interest.

14A Mediation officers

- (1) The functions of a mediation officer appointed by the Minister for the purposes of section 91B of the Act are to:
 - (a) promote the resolution of a dispute between a worker and his or her employer under section 91B of the Act;
 - (b) to conduct discussions with each party to the dispute;
 - (c) where it appears to the mediation officer likely to assist in the resolution of a dispute, convene a conference between the worker, the employer and/or the employer's insurer;
 - (d) preside at the conference;
 - (e) keep a record in respect of the mediation of the dispute in accordance with regulation 14B;
 - (f) advise the worker of the results of the mediation of the dispute; and

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- (g) advise the worker and/or the employer of further proceedings he, she or they may institute and the time within which to institute such proceedings.
- (2) In performing his or her functions, a mediation officer referred to in subregulation (1) has power to:
- (a) request the worker, the employer and/or the employer's insurer to attend and participate in a conference convened by him or her for the purposes of the mediation of the dispute;
 - (b) set the date, time and place of the conference;
 - (c) determine the commencement, adjournment (if any) and termination of the conference;
 - (d) direct the provision of information, being information on which a party to the dispute relies (including a medical report or any other report), by that party to the mediation officer or to another party to the dispute;
 - (e) impose a time limit within which information or a report referred to in paragraph (d) must be provided; and
 - (f) do such other things as are necessary or convenient to be done for the due and proper performance of his or her functions.
- (3) In the performance of his or her functions or the exercise of his or her powers, a mediation officer referred to in subregulation (1) shall:
- (a) act promptly and efficiently;
 - (b) be impartial; and
 - (c) except to the extent necessary for the proper performance of those functions or exercise of those powers, maintain confidentiality.

14B Procedure for mediation

A record kept by a mediation officer in respect of the mediation of a dispute shall comprise of:

- (a) a description of the nature of the dispute;
- (b) a description of the parties to the dispute; and
- (c) the results of the mediation of the dispute.

15 Prescribed indemnity

For the purposes of section 126(1) of the Act, \$2,000,000 is the prescribed amount.

16 Employer's wages declarations

(1) Form 6 is the form in which statements referred to in section 130(1) shall be supplied.

(2) For the purposes of section 130(4)(b) of the Act, a statement shall be verified, where an employer is:

(a) an individual natural person – by the person;

(b) a partnership – by one of the partners;

(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 Incorporation Act* – 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 the purposes of 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 in accordance with Form 7 on the insurer not later than 21 days before the first instalment is payable under that section.

17A Prescribed interest

For the purposes of section 131(3) of the Act 20% per annum is the prescribed rate of interest.

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

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- (b) by properly addressing and posting it by prepaid post to the Nominal Insurer, G.P.O. Box 2056, Darwin, N.T. 0800.

Schedule

Please see SL No. 49 of 1986 Work Health Regulations for the forms contained in this schedule.

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)

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|-----------|------------------|
| Notified | 21 December 1990 |
| Commenced | 21 December 1990 |

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

| | |
|-----------|--------------|
| Notified | 12 June 1991 |
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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

3 LIST OF AMENDMENTS

- 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
- r 4 sub No. 25, 1991, r 2
- r 4A ins No. 25, 1991, r 2
 rep No. 32, 1992, r 2
- r 5 rep No. 32, 1992, r 2
 ins No. 50, 1993, r 2
- r 6 amd No. 48, 1987, r 2
- 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 9 amd No. 22, 1993; No. 50, 1993, r 3
- r 10 amd No. 48, 1987, r 4
- r 11 sub No. 50, 1993, r 4
- r 13 amd No. 50, 1993, r 5; No. 11, 1996, r 1
- rr 14A – 14B ins No. 50, 1993, r 6
- r 17A ins No. 48, 1987, r 5
- 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