

# NORTHERN TERRITORY OF AUSTRALIA

## WORK HEALTH REGULATIONS

As in force at 17 March 2004

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 17 March 2004

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## 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.

#### 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, limousine 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,

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

- (2) For the purposes of paragraph (b)(vii) 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.

- (3) For the purposes of paragraph (b)(vii) of the definition of **worker** in section 3 of the Act, a natural person who performs work or a service for another person under an arrangement entered into by that other person with an approved labour hire agent is a prescribed person who is not a worker within the meaning of that definition when performing the work or service.
- (4) In subregulation (3), **approved** means approved by the Authority for the purposes of that subregulation.

#### **4 Prescribed member of family**

For the purposes of section 3(2) 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 Domestic employee of householder**

- (1) For the purposes of section 3(5) of the Act, a person employed by a householder to perform ironing, house cleaning, cooking or gardening duties in the householder's home, or as a chauffeur for the householder or a member of the householder's family, who earns, in a week, more than 20% of the average weekly earnings is

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a prescribed employee.

- (2) For the purposes of section 3(5) of the Act, a person referred to in subregulation (1) employed to perform the duties specified in that subregulation is not paid at a rate that would exceed the amount specified in that subregulation unless the person earns more than that amount in a week.

**5 Prescribed amount**

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

**6 Prescribed amount of funeral benefit**

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 or her 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.

**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**

- (2) Subject to subregulation (3), a certificate for the purposes of section 82(1)(b) of the Act is to be signed by a medical practitioner.

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- (3) Where because of isolation a medical practitioner is not reasonably available to sign a certificate referred to in subregulation (2), 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**

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

**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;
  - (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;
  - (b) must preside at the conference; and

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(c) may adjourn or terminate the conference at any time.

**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**

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

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = 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

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**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)

**3 SAVINGS AND TRANSITIONAL PROVISIONS**

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

**4 LIST OF AMENDMENTS**

r 3 rep No. 4, 1999, r 2  
 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  
 r 4 sub No. 25, 1991, r 2  
 r 4A ins No. 25, 1991, r 2  
 rep No. 32, 1992, r 2  
 ins No. 39, 2000, r 2  
 amd Act No. 1, 2004, s 63

## ENDNOTES

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- r 5 rep No. 32, 1992, r 2  
ins No. 50, 1993, r 2  
amd No. 4, 1999, r 4
- r 6 amd No. 48, 1987, r 2; Act No. 44, 2003, s 6
- 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
- r 9 amd No. 22, 1993; No. 50, 1993, r 3
- r 10 amd No. 48, 1987, r 4  
rep No. 4, 1999, r 6
- r 11 sub No. 50, 1993, r 4
- r 12 amd No. 4, 1999, r 7
- r 13 amd No. 50, 1993, r 5; No. 11, 1996, r 1  
sub No. 4, 1999, r 8
- r 14A ins No. 50, 1993, r 6  
sub No. 4, 1999, r 9
- r 14B ins No. 50, 1993, r 6  
rep No. 4, 1999, r 9
- r 16 amd No. 4, 1999, r 10
- 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  
rep No. 4, 1999, r 11