

NORTHERN TERRITORY OF AUSTRALIA

WORKERS REHABILITATION AND COMPENSATION LEGISLATION  
AMENDMENT ACT 2015

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Act No. 9 of 2015

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. 9 of 2015

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An Act to amend the *Workers Rehabilitation and Compensation Act* and the *Workers Rehabilitation and Compensation Regulations*, and for related purposes

[Assented to 23 April 2015]  
[Second reading 26 February 2015]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Workers Rehabilitation and Compensation Legislation Amendment Act 2015*.

### 2 Commencement

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

## Part 2 Amendment of Workers Rehabilitation and Compensation Act

### 3 Act amended

This Part amends the *Workers Rehabilitation and Compensation Act*.

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**4 Section 1 amended**

Section 1

*omit*

*Workers Rehabilitation and Compensation*

*insert*

*Return to Work*

**5 Section 2 inserted**

After section 1

*insert*

**2 Objects of Act**

The objects of this Act are as follows:

- (a) to provide for the effective rehabilitation and compensation of injured workers;
- (b) to provide for the prompt and effective management of workplace injuries in a manner that promotes and assists the return to work of injured workers as soon as practicable;
- (c) to ensure that the scheme for the rehabilitation and compensation of injured workers in the Territory:
  - (i) is fair, affordable, efficient and effective; and
  - (ii) provides adequate and just compensation to injured workers; and
  - (iii) is balanced to ensure that the costs of workers compensation are contained to reasonable levels for employers.

**6 Section 3 amended**

(1) Section 3(1)

*insert (in alphabetical order)*

***first compensation date***, in relation to a worker and a particular injury, means the date on which the worker first became entitled to compensation for that injury.

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**relevant permanent impairment**, for Part 5, Division 3, means permanent impairment assessed in accordance with section 65(13A).

**statement of fitness for work** means a certificate issued by a medical practitioner or another person of a class prescribed by regulation that certifies a worker's capacity for work.

- (2) Section 3(1), definition **worker**, paragraph (a)

*omit insert*

- (a) who:

- (i) performs work or a service of any kind for another person under a contract; and
- (ii) is, in relation to the contract, an employee for the purpose of assessment for PAYG withholding under the *Taxation Administration Act 1953* (Cth), Schedule 1, Parts 2-5; or

- (3) Section 3(3)

*omit, insert*

- (3) A director of a body corporate is a worker for this Act if:

- (a) an amount is withheld, under the PAYG provisions, from any remuneration (by whatever name called) paid to the director by the body corporate; and
- (b) the director's name and estimated remuneration, as well as the nature of the director's employment, are disclosed to the body corporate's insurer:
  - (i) on the later of the date when the director is appointed and the date when the insurance or indemnity is effected; and
  - (ii) each time the policy is renewed.

## **7 Section 4 amended**

Section 4(1)(e)(ii)

*omit*

medical certificate

---

*insert*

statement of fitness for work

## **8 Section 49 amended**

- (1) Section 49(1), definitions ***normal weekly earnings***, ***normal weekly number of hours of work***, ***nursing service*** and ***ordinary time rate of pay***

*omit*

- (2) Section 49(1) definition ***medical, surgical and rehabilitation treatment***, paragraph (b)

*omit*

certificate

*insert*

statement of fitness for work

- (3) Section 49(1A) to (4)

*omit, insert*

- (2) A reference in this Part to a fly-in fly-out worker or a drive-in drive-out worker is to be construed as it is for the purposes of the *Fringe Benefits Tax Assessment Act 1986* (Cth).

## **9 Section 49A inserted**

After section 49

*insert*

### **49A Calculation of worker's normal weekly earnings**

- (1) This section applies when normal weekly earnings are to be calculated for a worker who is entitled to compensation under this Act.
- (2) Subject to this section, the worker's normal weekly earnings immediately before the first compensation date are the gross remuneration paid to the worker by:
- (a) the employer liable to compensate the worker; and
  - (b) any other employer for whom the worker ordinarily works.

- (3) The following are included in the calculation of the worker's normal weekly earnings:
- (a) if the worker works overtime in accordance with a regular and established pattern – the amount of the wages attributable to that overtime;
  - (b) any over-award payment received by the worker;
  - (c) any climate allowance, district allowance, leading hand allowance, qualification allowance, shift allowance (if the worker works shiftwork in accordance with a regular and established pattern) or service grant received by the worker;
  - (d) unless the worker is a fly-in fly-out worker or drive-in drive-out worker – the value (not exceeding, in the aggregate, 35% of average weekly earnings) of any electricity, meals or accommodation provided to the worker by an employer in a form other than an amount of money paid or credited to the worker.
- (4) The following are not included in the calculation of the worker's normal weekly earnings:
- (a) a superannuation contribution made by the worker's employer;
  - (b) the amount of wages attributable to overtime other than as mentioned in subsection (3)(a);
  - (c) an allowance or grant not mentioned in subsection (3)(c);
  - (d) an amount for electricity, meals or accommodation other than as mentioned in subsection (3)(d);
  - (e) any other remuneration paid by an employer to the worker in a form other than an amount of money paid or credited to the worker.
- (5) The following applies for the calculation of the worker's normal weekly earnings:
- (a) if, immediately before the first compensation date, the remuneration paid to a worker by a particular employer did not vary from week to week – the portion of the normal weekly earnings provided by that employer must be calculated as being equal to the amount of the weekly remuneration;
  - (b) if, immediately before the first compensation date, the remuneration paid to the worker by a particular employer varied from week to week – the portion of the normal weekly

earnings provided by that employer must be calculated as equal to the relevant average remuneration from that employer;

- (c) the normal weekly earnings in respect of the worker's employment with the employer liable to compensate the worker must be calculated under this paragraph instead of under paragraph (a) or (b) and are equal to the all-employer average remuneration if:
  - (i) the worker had been in employment with that employer for less than 4 weeks immediately before the first compensation date; and
  - (ii) it is impracticable to calculate the normal weekly earnings of the worker, having regard both to the worker's period of employment with the employer and the period during which the worker likely would have continued to work for the employer had the injury not occurred;
- (d) if it is relevant whether a regular and established pattern of overtime or shiftwork was worked for a particular employer immediately before the first compensation date:
  - (i) if the worker was in employment with the employer for at least 6 months before the first compensation date – regard must be had to the overtime or shiftwork that the worker worked for that employer during the 6 months immediately before the first compensation date; or
  - (ii) otherwise – regard must be had to the following:
    - (A) the overtime or shiftwork that the worker worked for that employer; and
    - (B) whether, in the normal course of that employment, the worker would likely have worked overtime or shiftwork had the injury not occurred;
- (e) if there is doubt about the method to be used for the calculation of the worker's normal weekly earnings – the method of calculation that results in the greatest amount being calculated as the worker's normal weekly earnings must be used.



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- (6) For subsection (2)(b), a worker ordinarily works for an employer immediately before the first compensation date if:
- (a) the worker was in employment with the employer on the first compensation date; and
  - (b) the worker had been in employment with the employer for at least 6 weeks immediately before the first compensation date.
- (7) In this section:

***all-employer average remuneration***, in relation to remuneration paid to a worker immediately before the first compensation date, means the average of the worker's total remuneration from all employers for all weeks of paid employment during the period of 12 months that ends immediately before the first compensation date.

***relevant average remuneration*** in relation to remuneration paid to a worker by an employer immediately before the first compensation date, means the average of the worker's total remuneration from the employer for all weeks of paid employment during the period of 12 months that ends immediately before the first compensation date.

## **10 Section 50A inserted**

Before section 51, in Part 5, Division 2

*insert*

### **50A Eligibility of firefighter for compensation for prescribed disease**

- (1) Despite any other provision of this Act, but subject to section 203A, unless a contrary intention is established, a disease is taken to have been contracted by a worker in the course of a period of employment, and the employment is taken to have materially contributed to the worker's contraction of the disease, if the following conditions are met:
- (a) the worker is or was a firefighter;
  - (b) the disease is a prescribed disease;

- (c) the worker:
- (i) is, on the onset day for the prescribed disease, working as an active firefighter and had been so working for a period at least as long as the prescribed qualifying period for the prescribed disease; or
  - (ii) had been, within the 10 years immediately preceding that onset day, working as an active firefighter and had been so working for a period at least as long as the prescribed qualifying period for the prescribed disease;
- (d) that onset day is on or after 4 July 2011.
- (2) All periods during which a worker is working, or worked, as an active firefighter are to be added together for the calculation of the relevant prescribed qualifying period.
- (3) For this section:

**firefighter** includes a person who is one of the following:

- (a) a volunteer firefighter;
- (b) a fire control officer (including a Senior Fire Control Officer or the Chief Fire Control Officer) appointed under the *Bushfires Act*;
- (c) a worker employed by the Territory for the prevention or control of bushfires who is also a fire warden appointed under section 31(3) of the *Bushfires Act*.

**onset day**, in relation to a worker and a prescribed disease, means the earliest of the following:

- (a) the day on which the worker is first diagnosed by a medical practitioner as having contracted the prescribed disease;
- (b) the day on which the worker becomes incapacitated for work, if the prescribed disease resulted in, or materially contributed to, the incapacity;
- (c) the day on which the worker dies, if the prescribed disease resulted in, or materially contributed to, the death.

**prescribed disease** means a disease prescribed by regulation.

**volunteer firefighter** means a natural person to whom section 3(8) or (8A) applies.

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***working as an active firefighter***, in relation to a worker at a particular time or during a particular period, means:

- (a) if the worker is a volunteer firefighter at the particular time or during the particular period:
  - (i) the worker is working as a volunteer firefighter at the time or during the period and, while so working, is actively involved in fighting fires; and
  - (ii) the worker is exposed to the hazards of not fewer than the prescribed number of fires within any period:
    - (A) during which the worker is so working as a volunteer firefighter; and
    - (B) that is at least as long as the relevant prescribed firefighting period; or
- (b) if the worker is a firefighter (including a person appointed to be an auxiliary member under the *Fire and Emergency Act*) other than a volunteer firefighter – the worker was required under his or her contract of employment to be exposed to the hazards of fighting fires.

## **11 Section 58 inserted**

After section 57

*insert*

### **58 Compensation payable in respect of heart attack or stroke**

- (1) Compensation is payable under this Part in respect of a heart attack injury or a stroke injury to a worker only:
  - (a) for a heart attack or stroke injury that arose in the course of, or was caused by, a disease – if the worker's employment materially contributed to the injury or disease; or
  - (b) for a heart attack or stroke injury that did not arise in the course of a disease and was not caused by a disease – if the worker's employment materially contributed to the injury.

- (2) In determining, for subsection (1), whether the worker's employment materially contributed to the injury or disease:
- (a) the following must be taken into account:
    - (i) the duration of the worker's employment with the employer or employers who were the worker's employers at the time of the injury or the onset of the disease;
    - (ii) the nature of the work performed;
    - (iii) the particular tasks of the employment;
    - (iv) the probability of the injury or disease occurring if that employment had not taken place;
    - (v) the existence of any hereditary risks;
    - (vi) the lifestyle of the worker;
    - (vii) the activities of the worker outside the workplace; and
  - (b) the material contribution of the worker's employment to the injury or disease is to be determined in accordance with section 4(8).
- (3) In this section:

***heart attack injury*** means an injury to the heart, or a blood vessel supplying blood to, or associated with, the heart, that consists of, is caused by, results in or is associated with any of the following:

- (a) a heart attack;
- (b) a myocardial infarction;
- (c) a myocardial ischaemia;
- (d) angina, whether unstable or otherwise;
- (e) fibrillation, whether atrial, ventricular or otherwise;
- (f) an arrhythmia of the heart;
- (g) tachycardia, whether ventricular, supra ventricular or otherwise;
- (h) harm or damage to the blood vessel or associated plaque;

- (i) an impairment, disturbance or alteration of blood, or blood circulation, within the blood vessel;
- (j) an occlusion of the blood vessel, whether the occlusion is total or partial;
- (k) a rupture of the blood vessel, including a rupture of an aneurism of the blood vessel;
- (l) a haemorrhage from the blood vessel;
- (m) an aortic dissection;
- (n) any consequential physical harm or damage, including harm or damage to the brain;
- (o) any consequential mental harm or damage.

**stroke injury** means an injury to the brain, or a blood vessel supplying blood to, or associated with, the brain, that consists of, is caused by, results in or is associated with any of the following:

- (a) a stroke;
- (b) a cerebral infarction;
- (c) a cerebral ischaemia;
- (d) a rupture of the blood vessel, including a rupture of an aneurism of the blood vessel;
- (e) a subarachnoid haemorrhage;
- (f) a haemorrhage from the blood vessel;
- (g) harm or damage to the blood vessel or associated plaque;
- (h) an impairment, disturbance or alteration of blood, or blood circulation, within the blood vessel;
- (i) an occlusion of the blood vessel, whether the occlusion is total or partial;
- (j) any consequential physical harm or damage, including neurological harm or damage;
- (k) any consequential mental harm or damage.

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**12 Part 5, Division 3, Subdivision AA inserted**

After Part 5, Division 3, heading

*insert*

**Subdivision AA Limit on benefits****61A Maximum benefits**

- (1) This section applies to a worker to whom compensation is payable in accordance with section 65(1BA) or (1D), in respect of an injury.
- (2) The worker is entitled to be paid compensation under this Division as follows:
  - (a) if the worker has been paid compensation under section 65 in respect of the injury for a period of 260 weeks in the aggregate:
    - (i) no other compensation under section 65 is payable to the worker in respect of the injury; and
    - (ii) no other compensation under this Division, other than under section 71, is payable to the worker in respect of the injury for a cost that was incurred after 12 months after the end of the last of the 260 weeks;
  - (b) if, because of the operation of section 65(1D), compensation is to be paid to a worker under section 65, other than a worker who suffers relevant permanent impairment at a percentage of the whole person equal to not less than 15%, in respect of an injury for a period of weeks shorter than the period of 260 weeks mentioned in paragraph (a) (the **shorter period**):
    - (i) no compensation under section 65 is payable to the worker in respect of the injury and in respect of a period after the end of the shorter period; and
    - (ii) no other compensation under this Division, other than under section 71, is payable to the worker in respect of the injury for a cost that is incurred after a period that ends more than 12 months after the end of the last of the relevant number of weeks.
- (3) In this section:

**relevant number of weeks**, in relation a shorter period, means the number of weeks obtained when the number of weeks in the shorter period is subtracted from 260 weeks.

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**13 Section 62 amended**

## (1) Section 62(1)(b)

*omit*

all words after "equal"

*insert*

to 364 times average weekly earnings at the time the payment is made; and

## (2) After section 62(1)(b)

*insert*

(c) for the benefit of the worker's dependants – the reasonable costs (not exceeding, in the aggregate, any amount prescribed by regulation) of one or both of the following:

- (i) counselling services provided to them by a counselling professional;
- (ii) expert financial advice.

## (3) After section 62(4)

*insert*

## (5) In this section:

***counselling professional*** means:

- (a) a medical practitioner, registered psychologist or social worker; or
- (b) a counsellor who has qualifications recognised by the Authority.

***counselling service*** means a service provided to a worker's dependants to assist them to cope with the psychological impact of the death of the worker.

***expert financial advice*** means expert financial advice as prescribed by regulation.

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**14 Section 64 replaced**

Section 64

*omit, insert*

**64 Compensation during first 26 weeks of incapacity**

- (1) This section applies to a worker who is totally or partially incapacitated for work as the result of an injury.
- (2) Subject to this section, the worker is entitled to be paid compensation as follows:
  - (a) from the date on which a medical practitioner first certifies that the worker is totally or partially incapacitated for work and that the injury is the reason for, or materially contributed to, the incapacity;
  - (b) in respect of any period during which the worker is certified by a medical practitioner to be totally or partially incapacitated for work, if the injury was the reason for, or materially contributed to, the incapacity.
- (3) The weekly amount of the compensation is calculated as the difference between the following amounts:
  - (a) the amount that the worker actually earned in employment during the week;
  - (b) the worker's normal weekly earnings immediately before the first compensation date.
- (4) The weekly amount is in addition to any other compensation to which the worker is entitled under this Part.
- (5) The maximum number of weeks during which compensation is payable under this section need not be a continuous period, but may be made up of more than one period of weeks, so long as the following conditions are met:
  - (a) the total number of weeks does not exceed 26;
  - (b) a medical practitioner certifies that the worker is totally or partially incapacitated during each of those weeks;
  - (c) the injury was the reason for, or materially contributed to, the incapacity during each of those weeks;



- 
- (d) the worker suffered actual economic loss during each of those weeks as a result of the incapacity.
- (6) If a worker retires before the end of a period during which the worker would otherwise be entitled to compensation under this section:
- (a) the retirement does not affect the worker's entitlement to compensation; and
  - (b) the weekly amount of compensation continues to be calculated after the retirement as if the worker's normal weekly earnings continued despite the retirement.
- (7) This section is subject to sections 65A and 65B.

## **15 Section 65 amended**

- (1) Section 65(1A)  
*omit*
- (2) Section 65(1B)  
*omit*  
(1C) to (1H) as is applicable  
*insert*  
(1BA) to (1D)
- (3) After section 65(1B)  
*insert*
- (1BA) Compensation under this Subdivision for a worker, other than a worker who suffers relevant permanent impairment at a percentage of the whole person equal to not less than 15%:
- (a) is payable under this section for a period that does not exceed a period of 260 weeks in the aggregate (which includes the first 26 weeks for which compensation is payable under section 64) in respect of the injury; and
  - (b) is otherwise subject to this Part.

## (4) Section 65(1D) to (1H)

*omit, insert*

(1D) The following applies for the calculation of the period during which compensation is to be paid to a worker under this section:

(a) if the worker's injury date is 2 years or more before the date on which the worker attains the worker's future pension age and the worker suffers relevant permanent impairment at a percentage of the whole person equal to not less than 15% – the compensation is to be paid:

(i) if the worker's normal retiring age is later than the worker's future pension age – until the worker attains the worker's normal retiring age; or

(ii) otherwise – until the worker attains the worker's future pension age;

(b) if the worker's injury date is 2 years or more before the date on which the worker attains the worker's future pension age and the worker suffers relevant permanent impairment at a percentage of the whole person equal to less than 15% – the compensation is to be paid:

(i) if the worker's normal retiring age is later than the worker's future pension age – until the earlier of the following:

(A) the end of the last week in the period of 260 weeks in the aggregate mentioned in subsection (1BA);

(B) the date on which the worker attains the worker's normal retiring age; or

(ii) otherwise – until the earlier of the following:

(A) the end of the last week in the period of 260 weeks in the aggregate mentioned in subsection (1BA);

(B) the date on which the worker attains the worker's future pension age; or

- (c) the compensation is to be paid for 104 weeks from the injury date if:
- (i) the worker's normal retiring age is later than the worker's future pension age and the injury date is within 2 years before the date on which the worker attains the worker's normal retiring age; or
  - (ii) the worker's normal retiring age is later than the worker's future pension age and the injury date is on or after the date on which the worker attains the worker's normal retiring age; or
  - (iii) the worker's normal retiring age is not later than the worker's future pension age and the injury date is within 2 years before the date on which the worker attains the worker's future pension age; or
  - (iv) the worker's normal retiring age is not later than the worker's future pension age and the injury date is on or after the date on which the worker attains the worker's future pension age.

(5) Section 65(3)

*omit, insert*

- (3) The normal weekly earnings of a worker for the calculation of the worker's loss of earning capacity, or for subsection (8) or (9), at a particular date, are the least of the following amounts:
- (a) the amount calculated by using the formula in subsection (3A);
  - (b) the amount equal to the percentage of average weekly earnings prescribed by regulation or, if no percentage is prescribed – 250% of average weekly earnings.
- (3A) The formula for subsection (3)(a) is the following:

$$\frac{N \times A}{C}$$

where:

N is amount of the normal weekly earnings of the worker immediately before the first compensation date;

A is the amount of average weekly earnings at the particular date mentioned in subsection (3);

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C is the amount of average weekly earnings applying at the first compensation date.

(6) After section 65(13)

*insert*

(13A) For this section, a worker's relevant permanent impairment is to be assessed as follows:

- (a) subject to paragraph (b), the relevant permanent impairment is to be assessed as if it were being assessed under section 72 as permanent impairment for Subdivision C;
- (b) permanent impairment is not to be included in the assessment if it is:
  - (i) a psychological or psychiatric impairment; and
  - (ii) consequential on a physical injury other than a heart attack injury or stroke injury for which compensation is payable under section 58.

#### **16 Section 69 amended**

(1) Section 69(2)(a) to (b)

*omit, insert*

- (a) the person receiving the compensation returns to work or dies;  
or
- (aa) the person receiving the compensation fails to provide to his or her employer a statement of fitness for work under section 91A within 14 days after being requested to do so in writing by his or her employer; or
- (b) the following occurs:
  - (i) the statement of fitness for work mentioned in section 82 specifies that the person receiving the compensation is fit for work on a particular date, being not later than 4 weeks after the date of the injury in respect of which the claim was made;
  - (ii) the person fails to return to work on the particular date or to provide his or her employer on or before that date with another statement as to his or her incapacity for work; or

- (2) Section 69(3)
- omit*
- medical certificate
- insert*
- statement of fitness for work

**17 Section 70 amended**

- Section 70
- omit*
- prescribed guides
- insert*
- guides approved and published by the Authority

**18 Section 72 amended**

- Section 72(3B)
- omit*
- guides prescribed for the purposes of
- insert*
- guides mentioned in

**19 Section 82 amended**

- (1) Section 82(1)(a) and (b)
- omit, insert*
- (a) be in the approved form; and
- (b) unless it is a claim for compensation under section 62, 63 or 73 – be accompanied by a statement of fitness for work in a form approved by the Authority; and
- (2) Section 82(2), (3) and (6)
- omit*
- certificate

*insert*

statement of fitness for work

(3) Section 82(4)

*omit, insert*

(4) if the claim form specifies that the worker is required to authorise the release of information concerning the worker's injury:

(a) the form may specify that the information may be released to one or more of the following persons:

(i) the worker's employer;

(ii) the worker's employer's insurer;

(iii) a legal practitioner, medical practitioner, investigator, accredited vocational rehabilitation provider, or any other person reasonably consulted by the employer or insurer for making a decision as to the payment of the claim for compensation; and

(b) the worker must authorise the release of the information in accordance with the form; and

(c) the claim for compensation by the worker is not considered to have been made until the authorisation is given.

**20 Section 91A amended**

(1) Section 91A, heading

*omit*

**medical certificate**

*insert*

**statement of fitness for work**

(2) Section 91A(1) and (2)

*omit*

certificate

*insert*

statement of fitness for work

---

**21 Section 121A amended**

- (1) Section 121A(1)  
*omit*  
the amount  
*insert*  
any amount
- (2) Section 121A(1)(c)  
*omit*  
service.  
*insert*  
service; and
- (3) After section 121A(1)(c)  
*insert*  
(d) the costs incurred by the Territory in relation to the Authority's performance of functions under this Act, the *Work Health Administration Act* or another Act, and generally in relation to promoting work health and safety.
- (4) Section 121A(2)  
*omit, insert*
- (2) The Authority may establish and maintain procedures for one or both of the following:
- (a) payments to be made under this section;
- (b) payment of mediators participating in the mediation service provided by the Authority.

**22 Section 168 amended**

Section 168(1)(b), (2) and (3)

*omit*

certificate

---

*insert*

statement of fitness for work

**23 Part 13 inserted**

After section 200

*insert*

**Part 13 Transitional matters for Workers Rehabilitation and Compensation Legislation Amendment Act 2015**

**201 Definitions**

In this Part:

***amending Act*** means the *Workers Rehabilitation and Compensation Legislation Amendment Act 2015*.

***commencement*** means the commencement of the amending Act.

***post-commencement injury***, in relation to a worker, means an injury to the worker that arises on or after the commencement.

**202 Limitation for post-commencement injury**

- (1) The following provisions, as amended by the amending Act, apply in relation to an injury suffered by a worker only if the injury is a post-commencement injury:
- (a) section 3(1), definition ***worker***;
  - (b) section 3(3);
  - (c) section 58;
  - (d) section 61A;
  - (e) section 64;
  - (f) section 65.
- (2) The provisions mentioned in subsection (1)(a), (b), (e) and (f), as in force before the commencement, continue to apply in relation to injuries other than post-commencement injuries as if the amending Act had not commenced.



**203 Application of sections 49 and 49A**

- (1) Section 49, as amended by the amending Act, and section 49A, apply in relation to an injury suffered by a worker only if the injury is a post-commencement injury.
- (2) Section 49, as in force before the commencement, continues to apply in relation to an injury other than a post-commencement injury as if the amending Act had not commenced.

**203A Extended application of section 50A**

- (1) The presumption mentioned in section 50A(1) also applies in relation to a worker if the following conditions are met:
  - (a) the worker is or was a firefighter (including a person appointed to be an auxiliary member under the *Fire and Emergency Act*) other than a volunteer firefighter;
  - (b) the disease is a prescribed disease;
  - (c) the worker:
    - (i) is, on the onset day for the prescribed disease, working as an active firefighter and had been so working for a period at least as long as the prescribed qualifying period for the prescribed disease; or
    - (ii) had been, within the 10 years immediately preceding that onset day, working as an active firefighter and had been so working for a period at least as long as the prescribed qualifying period for the prescribed disease;
  - (d) that onset day is before 4 July 2011;
  - (e) a claim for compensation is made by the worker within 3 months after the commencement.
- (2) If the conditions mentioned in subsection (1) are met, this Act applies as if the onset day were immediately before the commencement.
- (3) Without limiting subsection (2), a person making a claim under Part 5, Division 3, Subdivision A in respect of a worker who has died may do so only if the worker made a claim as mentioned in subsection (1)(e) before dying.

**204 Application of section 62**

- (1) Section 62, as amended by the amending Act, applies in relation to the death of a worker only if the death results from, or is materially contributed to by, a post-commencement injury.
- (2) Section 62, as in force before the commencement, continues to apply in relation to the death of a worker, other than a death of a worker mentioned in subsection (1), as if the amending Act had not commenced.

**205 Contribution under section 121A**

The obligation for an insurer or self-insurer to pay amounts under section 121A(1)(d) on and after the commencement applies even if approval, or renewal of approval, of the approved insurer or self-insurer was granted before the commencement.

**Part 3 Amendment of Workers Rehabilitation and Compensation Regulations****24 Regulations amended**

This Part amends the *Workers Rehabilitation and Compensation Regulations*.

**25 Regulation 1 amended**

Regulation 1

*omit*

*Workers Rehabilitation and Compensation*

*insert*

*Return to Work*

**26 Regulations 5B and 5C inserted**

After regulation 5A

*insert*

**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:

<b>Disease</b>	<b>Qualifying period</b>
Primary site brain cancer	5 years
Primary site bladder cancer	15 years
Primary site kidney cancer	15 years
Primary non-Hodgkin's lymphoma	15 years
Primary leukaemia	5 years
Primary site breast cancer	10 years
Primary site testicular cancer	10 years
Multiple myeloma	15 years
Primary site prostate cancer	15 years
Primary site ureter cancer	15 years
Primary site colorectal cancer	15 years
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.

**27 Regulation 6 amended**

Regulation 6

*omit*

10%

*insert*

20%

**28 Regulation 6AA inserted**

After regulation 6

*insert*

**6AA Expert financial advice**

- (1) For section 62(5) 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.

**29 Regulation 9 repealed**

Regulation 9

*repeal*

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**30 Regulation 12 amended**

- (1) Regulation 12, heading

*omit*

**Medical certificate**

*insert*

**Statement of fitness for work**

- (2) Regulation 12(1)

*omit, insert*

- (1) For section 82(1)(b) of the Act, the following persons are prescribed for issuing a statement of fitness for work for a worker if, because of the worker's isolation, a medical practitioner is unable to issue such a statement:

- (a) persons registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as nurses (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).

- (3) Regulation 12(2)

*omit*

certificate

*insert*

statement of fitness for work

## **Part 4 Amendment of other laws**

**31 Other laws amended**

The Schedule amends the laws mentioned in it.

**Part 5 Expiry of Act**

**32 Expiry of Act**

This Act expires on the day after it commences.

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**Schedule Other laws amended**

section 31

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<b><i>Annual Leave Act</i></b>		
section 4(1)(a) to (c), at the end		or
section 4(2)	whole subsection	(2) This Act does not affect the operation of the <i>Return to Work Act</i> .
<b><i>Cullen Bay Marina Regulations</i></b>		
regulation 68(4)(a)	<i>Workers Rehabilitation and Compensation Act</i>	<i>Return to Work Act</i>
<b><i>Motor Accidents (Compensation) Act</i></b>		
section 4, definition <b><i>workers compensation legislation</i></b>	<i>Workers Rehabilitation and Compensation Act</i>	<i>Return to Work Act</i>
<b><i>Personal Injuries (Civil Claims) Act</i></b>		
section 5(4)(e)	within the meaning of the <i>Workers Rehabilitation and Compensation Act</i>	as defined in the <i>Return to Work Act</i>
<b><i>Personal Injuries (Liabilities and Damages) Act</i></b>		
section 4(3)(b)	within the meaning of the <i>Workers Rehabilitation and Compensation Act</i>	as defined in the <i>Return to Work Act</i>

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**Stamp Duty Act**

Schedule 2, item 21      *Workers Rehabilitation and Compensation Act*      *Return to Work Act*

**Supreme Court Rules**

rule 87.01, definition **Act** and Schedule 1, Form 87A      *Workers Rehabilitation and Compensation Act*      *Return to Work Act*

**Victims of Crime Assistance Act**

sections 18(1)(a) and (b), (2) and (5), definition **worker**, 26(3)(i) and 32(1)(k)      *Workers Rehabilitation and Compensation Act*      *Return to Work Act*

**Victims of Crime Assistance Regulations**

regulations 13(1)(a) and 26(a)(i)      *Workers Rehabilitation and Compensation Act*      *Return to Work Act*

**Work Health Administration Act**

sections 5(1)(b), 7(2)(b) and 14(a)      *Workers Rehabilitation and Compensation Act*      *Return to Work Act*

**Work Health Court Rules**

rules 1.08(1), definition **the Act** and 5.02(1)(a) and Schedule, Forms 5A, 5C, 9A, 15E and 15F      *Workers Rehabilitation and Compensation Act (all references)*      *Return to Work Act*

Schedule, Form 5A, paragraph (g)      section 126(2)(b)(i)      section 126A(2)(b)(i)