



NORTHERN TERRITORY OF AUSTRALIA

No. 47 of 1984

AN ACT

To amend the *Workmen's Compensation Act*

[Assented to 25 September 1984]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Workmen's Compensation Amendment Act 1984*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Workmen's Compensation Act* is in this Act referred to as the Principal Act.

4. CITATION

The Principal Act as amended by this Act may be cited as the *Workers' Compensation Act*.

5. INTERPRETATION

Section 6 of the Principal Act is amended -

- (a) by inserting in sub-section (1) after the definition of "Commissioner" the following:

"'court' means the Workers' Compensation Court established by section 6A;";

- (b) by omitting from sub-section (1) the definition of "the Tribunal";

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- (c) by omitting from sub-section (6) "workman" (first occurring) and substituting "worker"; and
- (d) by omitting from sub-section (6) "in any State or Territory (other than the Northern Territory) then, if the workman while in that State or Territory" and substituting "outside the Territory then, if the worker while outside the Territory".

6. REPEAL AND SUBSTITUTION

Section 6A of the Principal Act is repealed and the following substituted:

"6A. WORKERS' COMPENSATION COURT

"(1) There shall be a court, to be known as the Workers' Compensation Court.

"(2) Each Stipendiary Magistrate appointed or holding office under the *Magistrates Act* shall, by virtue of his office, be a member of the court.

"(3) The person who holds under the *Magistrates Act* the office of Chief Magistrate established by that Act shall be the Chief Magistrate of the court.

"(4) The court shall be a court of record and shall have a seal which shall be affixed to all process issued out of the court."

7. REPEAL AND SUBSTITUTION

Section 6D of the Principal Act is repealed and the following substituted:

"6D. PROCEDURE BEFORE COURT

"At the hearing of a proceeding, the procedure of the court is, subject to this Act, within the discretion of the court."

8. REPRESENTATION BEFORE COURT

Section 6E of the Principal Act is amended by omitting all words after "represented by a" and substituting "legal practitioner or by a person who the court is satisfied is acting on behalf, and at the request, of the party."

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9. UNREASONABLE DELAY IN SETTLEMENT OF COMPENSATION

Section 6G of the Principal Act is amended -

- (a) by inserting after sub-section (1) the following:

"(1A) Where a weekly or other payment due under this Act to a person by an employer has not been made in a regular manner or in accordance with the normal manner of payment, the court may -

- (a) upon an application in the prescribed form made to it by the person; and
- (b) where it is satisfied that the weekly or other payment has not been made in the regular manner or in accordance with the normal manner of payment,

order that interest at a rate specified by it be paid by the employer to the person in respect of the amount and period for which the weekly or other payment was or is delayed.";

- (b) by inserting in sub-section (2) after "sub-section (1)" the words "or (1A)"; and
- (c) by omitting from sub-section (2) the word "awarded" and substituting "awarded or to whom the weekly or other payment due under this Act is payable".

10. WITHHOLDING OF PAYMENT

Section 7A of the Principal Act is amended by omitting sub-section (2) and substituting the following:

"(2) An employer may discontinue, withhold or diminish a weekly or other payment due under this Act to a person where -

- (a) the person returns to his employment and is engaged in work in, or work similar to, which he was engaged prior to; or
- (b) subject to sub-sections (3) and (5), a medical certificate in respect of the person is issued certifying that -
 - (i) he is wholly or partially recovered from; or
 - (ii) his continued incapacity is no longer a result of,

the accident in respect of which compensation is being paid.

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"(3) An employer shall not under sub-section (2)(b) discontinue, withhold or diminish a weekly or other payment due under this Act to a person unless -

- (a) he has given to the person a copy of the medical certificate issued under that sub-section in relation to the person together with written notification that he intends to discontinue, withhold or diminish the payment; and
- (b) 21 days have elapsed since the giving of the medical certificate and the written notification referred to in paragraph (a).

"(4) A person given under sub-section (3) a copy of the medical certificate issued under sub-section (2)(b) in relation to him and written notification referred to in sub-section (3) may, not later than 21 days after he has been given those documents, apply to the court for an order that the weekly or other payment due under this Act to him, to which that written notification relates, be not discontinued, withheld or diminished, as the case may be.

"(5) At the hearing of an application made under sub-section (4), the court may -

- (a) where it is satisfied that the employer seeking under this section to discontinue, withhold or diminish, as the case may be, the weekly or other payment due under this Act to the person who made the application has established a prima facie case for carrying out that action - adjourn the application on such conditions, including conditions as to payments; or
- (b) in any other case - make such order for the continuation of the weekly or other payment referred to in paragraph (a),

as it thinks fit.

"(6) The onus of proving that a weekly or other payment due under this Act to a person should be discontinued, withheld or diminished in accordance with this section shall be on the employer seeking to carry out that action."

11. AMOUNT DUE RECOVERABLE BY ACTION

Section 17CA of the Principal Act is amended by adding at the end the following:

"(2) The address for service of the Nominal Insurer and the procedure for the execution of a judgment or order made against the Nominal Insurer in an action for the recovery of an amount referred to in sub-section (1) shall be as prescribed."

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12. INTERVENTION BY NOMINAL INSURER

Section 17D of the Principal Act is amended by adding at the end the following:

"(2) Notwithstanding that an employer against whom a claim referred to in sub-section (1) has been made denies liability in relation to the claim, nothing in that sub-section shall prevent the Nominal Insurer from proceeding against the employer."

13. COMPULSORY INSURANCE

Section 18 of the Principal Act is amended -

- (a) by inserting in sub-section (2) after "to issue" the words "or renew"; and
- (b) by omitting sub-section (9).

14. NEW SECTIONS

The Principal Act is amended by inserting after section 18 the following:

"18AA. EMPLOYER TO SUPPLY WAGES STATEMENT

"(1) An employer applying to an insurer for the issue or renewal of a policy of insurance or indemnity (for which purpose, 'policy of insurance or indemnity' includes a cover note) against liability under this Act shall -

- (a) not later than one month after -
 - (i) the issue of the policy; or
 - (ii) the date for renewal of the policy,as the case may be, supply the insurer with -
 - (iii) a statement giving a proper estimate of the wages that will be payable by the employer during the insurance or indemnity period to workers in his employment in respect of whom the employer would be entitled to claim under the policy; and
 - (iv) such other information as is prescribed; and
- (b) not later than 2 months after the expiration of each such period of insurance or indemnity supply the insurer with a full and correct statement of the amounts actually paid by him during the period.

Penalty: \$2,000.

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"(2) A statement referred to in sub-section (1)(a) (iii) is supplied in accordance with that sub-section where the Regulations -

- (a) prescribe a form in or to the effect of which the statement shall be supplied; or
- (b) require the statement to be verified in a specified manner,

and the statement is so supplied or verified.

"(3) An employer shall keep full and correct records of -

- (a) all wages paid to;
- (b) the trade, occupation or calling of; and
- (c) such other matters as are prescribed relating to wages paid to,

workers employed by him.

Penalty: \$2,000.

"(4) An employer shall retain the records referred to in sub-section (3) for not less than 7 years.

Penalty: \$200.

"(5) A prosecution for an offence against sub-section (1) or (3) shall not be made after the expiration of 3 years from the date of the offence.

"18AB. PAYMENT OF PREMIUMS

"(1) Where, in respect of a policy of insurance or indemnity against liability under this Act -

- (a) the insurance or indemnity period is one year; and
- (b) the premium payable is more than \$500 or, where some other amount is prescribed, more than that other amount,

the employer may, in such manner as is agreed upon between the employer and the insurer or, in default of agreement, as is prescribed, elect to pay the premium by 4 instalments the several instalments being payable on dates that are 1, 3, 5 and 7 months after service on the employer of a demand or request by the insurer for payment of the premium.

"(2) An instalment referred to in sub-section (1) in respect of a premium referred to in that sub-section shall be -

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(a) due on the dates that are 1, 3, 5 and 7 months after service on the employer of a demand or request for payment of the premium; and

(b) equal to one-fourth of the premium.

"(3) Where an employer -

(a) has not elected under sub-section (1) to pay a premium referred to in that sub-section by instalments and fails to pay the full amount of the premium within one month after service on him of a notice that payment of the premium is due;

(b) has elected under sub-section (1) to pay a premium referred to in that sub-section by instalments and fails to pay an instalment by the due date for the instalment; or

(c) fails to pay an adjustment of a premium referred to in sub-section (1) within one month after service on him of a notice that payment of the amount of the adjustment is due,

then -

(d) in the case referred to in paragraph (a) - the full amount of the premium referred to in that paragraph;

(e) in the case referred to in paragraph (b) - the balance of the premium referred to in that paragraph unpaid or, where no instalment has been paid, the full amount of that premium; and

(f) in the case referred to in paragraph (c) - the amount of the adjustment referred to in that paragraph,

bears interest until payment (except to the extent that payment of interest is waived by the insurer) at the rate of 10% per annum, or where some other rate of interest is prescribed, that other rate, and is recoverable with interest as a debt in a court of competent jurisdiction."

15. DEFAULT OF APPROVED INSURER

Section 18F(1)(b) of the Principal Act is amended by omitting "has not" and substituting "has, or has not,".

16. TIME FOR TAKING PROCEEDINGS

Section 25 of the Principal Act is amended by omitting sub-section (6) and substituting the following:

"(6) An employer shall keep the book referred to in sub-section (5) accessible at all reasonable times to -

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- (a) an injured worker or a person acting on his behalf; and
- (b) an inspector within the meaning of the *Construction Safety Act*, the *Dangerous Goods Act* or the *Inspection of Machinery Act*.

Penalty: \$1,000."

17. APPEALS

Section 26 of the Principal Act is amended by omitting sub-section (1) and substituting the following:

"(1) Where the court makes a determination under this Act, a party to the proceeding may appeal against the determination on a question of law to the Supreme Court within the time and in the manner prescribed by the Rules of the Supreme Court.

"(1A) Notwithstanding sub-section (1), where, in the opinion of the Supreme Court, evidence relevant to the appeal is available which was not considered by the court at the time of its determination, the Supreme Court may admit that evidence at the appeal where it is satisfied that the party seeking the admission of the evidence did not know or could not reasonably have known of the existence of the evidence at the time of the determination by the court."

18. REPEAL

Section 27 of the Principal Act is repealed.

19. REGULATIONS

Section 28 of the Principal Act is amended -

- (a) by omitting from paragraph (da) "and" (last occurring); and
- (b) by omitting paragraph (e) and substituting the following:
 - "(e) the information an employer is to supply an insurer for the purposes of section 18AA(1)(a)(iv);
 - (f) the form of a statement referred to in section 18AA(1)(a)(iii);
 - (g) the manner of verification of a statement referred to in section 18AA(1)(a)(iii);
 - (h) the particulars to be kept by an employer in relation to the wages paid to workers employed by him;

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- (j) an amount of premium payable for the purposes of section 18AB(1)(b);
- (k) interest to be paid for the purposes of section 18AB(3) by an employer on amounts owing to an insurer; and
- (m) penalties not exceeding \$1,000 for a breach of the Regulations."

20. SCHEDULE 2

Schedule 2 to the Principal Act is amended by omitting from clause (1B) "whichever is the greater" and substituting "whichever is the lesser".

21. SCHEDULE 5

Schedule 5 to the Principal Act is amended by adding at the end the following:

"LIABILITY IN RESPECT OF INJURIES OCCURRING OUTSIDE THE TERRITORY

"15. The Insurer shall not be liable to indemnify the Employer in respect of the Employer's liability to pay compensation under the Act to a worker (including a person who is deemed by the Act to be a worker) where the liability in respect of the worker arose outside Australia, unless the Employer has prior to the worker going outside Australia given notice in writing to the Insurer of that fact."

22. FURTHER AMENDMENTS

The Principal Act is further amended as set out in the Schedule.

23. TRANSITIONAL AND SAVINGS

(1) A proceeding, within the meaning of the Principal Act as in force at any time before the commencement of this Act, begun in the Tribunal, within the meaning of the Principal Act as in force immediately before that commencement, for which no determination has, as at the date of that commencement, been made by that Tribunal, may, on and after that commencement, be continued and completed in the court within the meaning of the Principal Act as amended by this Act as if the proceeding had been instituted in that court.

(2) Notwithstanding the repeal effected by section 18, a certificate given under section 27 of the Principal Act as in force at any time before the commencement of this Act and in force immediately before that commencement shall, on and after that commencement, remain in force and continue to have effect -

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- (a) for the unexpired portion of the period of the certificate remaining after that commencement; or
 - (b) until the certificate is revoked in accordance with section 27 of the Principal Act as in force immediately before that commencement,
- whichever is the earlier, as if this Act had never commenced.

(3) Where, on the commencement of this Act, and notwithstanding the requirements of clause 15 of Schedule 5 to the Principal Act as amended by this Act, a worker (including a person deemed by the Principal Act as amended by this Act to be a worker) is, in the course of his employment, outside Australia, the employer of the worker shall, for the purposes of the Principal Act as amended by this Act, be deemed to have complied with that clause in relation to the worker where the employer has, not later than 7 days after that commencement, given to his insurer in relation to the worker written notice that the worker is outside Australia in the course of his employment with that employer.

(4) The Workmen's Compensation Tribunal Rules that were in force under the Principal Act as in force immediately before the commencement of this Act shall, on and after that commencement, continue in force, with the necessary changes, and subject to the directions of the court within the meaning of the Principal Act as amended by this Act in a particular case, as if made by the Chief Magistrate of that court, but may be amended or repealed by Rules made under the Principal Act as amended by this Act.

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SCHEDULE

Section 22

AMENDMENTS

Provision	Amendment	
	omit	substitute
Long title	"workmen"	"workers"
Section 5(2)	"workman"	"worker"
Section 6(1) - definitions of "ambulance service", "dependant", "employer", "hospital treatment", "medical and surgical treatment", "member of the family" and "the appropriate Registrar"	"workman" (wherever occurring)	"worker"
- definition of "dependant"	"workman's"	"worker's"
- definition of "exempt employer"	"workmen"	"workers"
- definition of "proceeding", "Registrar" and "the appropriate Registrar"	"Tribunal"	"court"
- definition of "the Rules of the Tribunal"	The whole definition	"the Rules of the court' means the rules made under section 6F by the Chief Magistrate of the court;"
- definition of "workman"	"workman"	"worker"
Section 6(2)	"workmen"	"workers"
Section 6(2), (3), (3A), (4) and (5)	"workman" (wherever occurring)	"worker"
Section 6(4)	"workman's"	"worker's"
Sections 6B(1), (1A), (1B), (2), (4) and 6C	"Tribunal" (wherever occurring)	"court"

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Provision	Amendment	
	omit	substitute
Sections 6C(1), (2) and 6F(1)	"President"	"Chief Magistrate"
Sections 6F(1), 6G, 6H and 6J	"Tribunal" (wherever occurring)	"court"
Section 6J(3) and (5)	"President"	"Chief Magistrate"
Sections 6K, 6L and 6M	"Tribunal" (wherever occurring)	"court"
Sections 6M(1)(a)(i) and 6N(1)	"workman"	"worker"
Sections 6N, 6P and 6Q	"Tribunal" (wherever occurring)	"court"
Section 6Q	"\$100"	"\$1,000 or imprisonment for 6 months"
Section 6R(1)	"Tribunal" (twice occurring)	"court"
	"\$100"	"\$1,000"
Sections 6R(2) and 6S	"Tribunal"	"court"
Sections 6S and 6T	"Imprisonment for one year"	"\$1,000 or imprisonment for 12 months"
Section 6T	"Tribunal"	"court"
Section 7	"workman" (wherever occurring)	"worker"
Section 7A(1)	"Tribunal"	"court"
	"\$100"	"\$1,000"
Section 7A(2)	"Tribunal"	"court"
Section 8(1)	"workman"	"worker"
Section 8(2)	"workman's"	"worker's"

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Provision	Amendment	
	omit	substitute
Section 9(1), (1AA), (1A), (2), (3), (3A), (3B) and (3C)	"workman"	"worker"
Section 9(3C)	"Tribunal" (twice occurring)	"court"
	"workman's"	"worker's"
Section 9(3D)	"workmen"	"workers"
Section 9AA	"workman" (wherever occurring)	"worker"
Section 9AA(5)	"Tribunal"	"court"
Section 9A(b)	"workman"	"worker"
	"workman's"	"worker's"
Section 9B(1)	"workman" (twice occurring)	"worker"
Section 9B(4)	"workman's"	"worker's"
Sections 10(1), (1A), (4), (5), (7), (8), (9) and 10A	"workman"	"worker"
Section 10A	"Tribunal" (twice occurring)	"court"
Sections 10B(1), 11(1), (1A), (2A), (2B), (4) and (5)	"workman" (wherever occurring)	"worker"
Section 11(1A)	"workman's"	"worker's"
Section 11(2)	"workmen"	"workers"
Sections 11(2A), (7), (8) and 12(1)	"Tribunal"	"court"

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Provision	Amendment	
	omit	substitute
Sections 12, 13 and 14	"workman" (wherever occurring)	"worker"
Section 13	"workman's"	"worker's"
Section 14A(2)	"workmen"	"workers"
Section 15	"Tribunal"	"court"
Sections 15(2) and 16B(a)	"workman"	"worker"
Section 16C	"\$200"	"\$1,000"
Section 16P(b)	"Tribunal"	"court"
Section 16Q(7)	"\$200"	"\$1,000"
Section 17A(1)(a) and (4)(c)	"workman" (wherever occurring)	"worker"
Section 17C(1), (2), (3), (5) and (7)	"Tribunal" (wherever occurring)	"court"
Sections 17D and 17G(2)	"\$200"	"\$1,000"
Section 17K(2)	"\$10,000"	"\$15,000"
Section 18(1)	"workmen" (twice occurring)	"workers"
	"workman"	"worker"
Section 18(6)	"\$1,000"	"\$10,000"
	"\$100"	"\$1,000"
Sections 18D(2)(c) and 18E(1)(d)	"workmen"	"workers"
Section 18F(1)(d)(ii)	"workman's"	"worker's"
Section 19(2)	"workman"	"worker"
	"workmen"	"workers"

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Provision	Amendment	
	omit	substitute
Section 19(3)	"\$200"	"\$1,000"
Section 20(2)	"workmen"	"workers"
Section 20A	"\$200"	"\$1,000"
Section 20C(15)	"\$100"	"\$1,000"
Section 21(1)	"workman"	"worker"
Section 21(2)	"\$40"	"\$1,000"
Sections 22(1), (1A), (1B), (3), 23, 25(1), (1A), (1B), (5) and (6)	"workman"	"worker"
Section 25(5) and (6)	"\$100"	"\$1,000"
Section 25A	"Tribunal"	"court"
Section 27B(4)(a)	"workman"	"worker"
Section 28(a)	"workmen"	"workers"
SCHEDULE 2	"workman" (wherever occurring)	"worker"
	"workman's" (wherever occurring)	"worker's"
	"Tribunal" (wherever occurring)	"court"
	"workmen"	"workers"
	"President"	"Chief Magistrate"
SCHEDULE 5	" <i>Workmen's Compensation Act</i> "	" <i>Workers' Compen- sation Act</i> "

Workmen's Compensation Amendment

Provision	Amendment	
	omit	substitute
	"workmen" (twice occurring)	"workers"
	"workman" (wherever occurring)	"worker"