

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 77 of 1978

## AN ORDINANCE

To amend the Workmen's Compensation Ordinance

[Assented to 26 July 1978]

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Workmen's Compensation Ordinance 1978.

Short  
title

2. The Workmen's Compensation Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal  
Ordinance

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

Commencement

4. Where, at the date of commencement of this Ordinance, a Tribunal consisting of 3 or more members had commenced the hearing of proceedings but -

Transitional

(a) the hearing had not been completed; or

(b) the proceedings had not been determined,

that Tribunal so constituted may continue the hearing of the proceedings and may determine the proceedings as if sections 6 and 7 of this Ordinance had not come into operation.

5.(1) Section 6(1) of the Principal Ordinance is amended -

Definitions

(a) by omitting the definition of "overtime" and substituting the following definition:

"'overtime' -

(a) in relation to employment that is covered by an award or industrial agreement in which overtime is defined, means overtime as defined in that award or agreement; and

(b) in relation to any other employment means any time during which a person works in addition to-

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- (i) a period agreed to between the parties to be the working hours per week; or
  - (ii) where no period of working hours per week has been agreed to, a period of 40 hours per week;"; and
- (b) by omitting from the definition of "workman" -
- (i) from paragraph (b) the word "or"; and
  - (ii) from paragraph (c) the word "and" (last occurring); and
- (c) by adding after paragraph (c) of the definition of "workman" the following:
- "or
- (d) a person whose employment is casual (that is for one period only of not more than 5 working days) and who is employed otherwise than for the purposes of the employer's trade or business;".

(2) Section 6(2) of the Principal Ordinance is amended by omitting "10 dollars" and substituting "100 dollars".

Workmen's  
Compensation  
Tribunal

6. (1) Section 6A(2) of the Principal Ordinance is amended -
- (a) by omitting "Justices Ordinance" and substituting "Magistrates Ordinance"; and
  - (b) by omitting "and the Administrator in Council may appoint such other members of the Tribunal as he thinks fit".

(2) Section 6A of the Principal Ordinance is amended by omitting sub-sections (3), (4), (5) and (6) and substituting the following sub-section:

"(3) The Chief Magistrate within the meaning of the Magistrates Ordinance is the President of the Tribunal."

Sittings of  
the Tribunal

7. Section 6C of the Principal Ordinance is amended by omitting sub-sections (2) and (3) and substituting the following sub-sections:

"(2) The President of the Tribunal may, from time to time, make arrangements as to which member of the Tribunal shall exercise the powers and perform the functions of the Tribunal.

"(3) The powers of the Tribunal shall be exercised and the functions of the Tribunal shall be performed by a member of the Tribunal sitting alone and notwithstanding that another member of the Tribunal is at the same time sitting and exercising those powers and performing those functions."

Recording an  
agreement

8. Section 6N(2) of the Principal Ordinance is amended by omitting from paragraph (b) "as soon as practicable" and

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substituting "within 14 days".

9. Section 10 of the Principal Ordinance is amended -

- (a) by omitting from sub-sections (1) and (1A) ",when the injury results in incapacity other than total and permanent incapacity for work,"; and
- (b) by inserting in sub-sections (4) and (5) after "sustains" the words ", by accident arising out of or in the course of his employment,".

Compensation  
for certain  
injuries

10. Section 11 of the Principal Ordinance is amended by omitting sub-section (2A) and substituting the following sub-section:

"(2A) Where, by accident arising out of or in the course of his employment, an injury is caused to a workman, the employer is liable to pay compensation of an amount considered reasonable by the Tribunal in respect of the cost, payable by the workman, of an alteration to a building occupied, or vehicle or article used, by him, or of obtaining any aid or appliance (other than an artificial limb or other artificial substitute or a medical, surgical or other similar aid or appliance) for use by him or of having such an aid or appliance repaired or replaced, being an alteration the making of which, or an aid or appliance, the obtaining of which, was reasonably required as a result of the injury."

Medical and  
surgical  
treatments,  
hospital  
treatments or  
nursing and  
ambulance  
services

11. Section 12 of the Principal Ordinance is amended by omitting sub-section (1) and substituting the following sub-section:

"(1) Where, as a result of an injury caused by an accident arising out of or in the course of his employment, a workman, on the advice of a registered medical practitioner, requires the constant help or attendance of another person, compensation is payable to the workman during a period when he requires that help or attendance at a weekly rate considered reasonable by the Tribunal."

Additional  
compensation  
where a  
workman  
requires  
constant  
help of  
another  
person

12. Section 18(2) of the Principal Ordinance is amended by inserting after "employer" the words "who has tendered the premium for such a policy and".

Compulsory  
insurance

13. Section 25 of the Principal Ordinance is amended by omitting sub-sections (5), (6) and (7) and substituting the following sub-sections:

Time for  
taking  
proceedings

"(5) An employer shall keep a book in the prescribed form at each mine, quarry, factory, workshop, shop or office or at a first aid station at or near a place where a workman is employed in which the prescribed particulars of an injury happening to a workman employed at the mine, quarry, factory, workshop, shop, office or such place may be entered by the injured workman or some other person acting on his behalf.

Penalty: 100 dollars.

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"(6) An employer shall keep the book referred to in sub-section (5) accessible at all reasonable times to an injured workman or any person acting on his behalf.

Penalty: 100 dollars.

"(7) An entry in such a book, if made as soon as practicable after the happening of the injury, shall be sufficient notice of the injury for the purposes of this Ordinance."

14. The Principal Ordinance is amended by inserting after section 25 the following section:

Points of  
law may be  
reserved for  
the consider-  
ation of the  
Supreme Court

"25A.(1) The Tribunal may, at its discretion, reserve a question of law arising out of proceedings under this Ordinance for the consideration of the Supreme Court, and state a special case for the opinion of that Court.

"(2) The Supreme Court shall deal with a special case referred to it under sub-section (1) according to the practice of the Supreme Court on special cases, and may make such order thereon (including any order as to the costs of the proceedings in that Court and in the Tribunal) as to the Supreme Court appears just.

"(3) The Supreme Court may send a special case referred to it under sub-section (1) back to the Tribunal for amendment, or may itself amend it.

"(4) The Tribunal shall make a determination in respect of the matters referred to the Supreme Court under sub-section (1) in conformity with the certificate of the Supreme Court."

15. Section 27B of the Principal Ordinance is repealed.

Regulations

16. Section 28(e) of the Principal Ordinance is amended by omitting "100 dollars" and substituting "500 dollars".

Second  
Schedule

17. The Second Schedule to the Principal Ordinance is amended -

(a) by omitting paragraph (1A)(b) and substituting the following paragraph:

"(b) if at the date of the injury the workman has a spouse who is wholly or mainly dependent on the workman's earnings during the period of incapacity - 21 dollars per week;"

(b) by inserting after paragraph (1A)(c) the following paragraph:

"(ca) where the workman is an Aboriginal native of Australia, then -

(i) if no compensation is payable under paragraph (b), but compensation is payable under paragraph (c) in respect of a woman or girl who is his

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tribal wife, and there is at least one additional woman or girl who has attained the age of 16 years and was at the date of the injury his tribal wife - \$10 per week for each such additional tribal wife while she is wholly or mainly dependent on his earnings during his incapacity; or

- (ii) if compensation is payable under paragraph (b), and there is at least one woman or girl who has attained the age of 16 years and was at the date of the injury his tribal wife - \$10 per week for each such tribal wife while she is wholly or mainly dependent on his earnings during his incapacity;"

- (c) by omitting paragraph (2)(b) and substituting the following paragraph:

"(b) where the workman is totally or partially incapacitated for work by the injury, then, subject to paragraph (2A), the weekly payment otherwise payable under paragraphs (1A), (1B) or (1C) shall be reduced -

- (i) where no determination has been made in accordance with paragraph (2)(b)(ii), by the amount of any payment, allowance or benefit which the workman receives from his employer during the period of his incapacity; or
- (ii) where an application by either party for a determination by the Tribunal has been made, to such amount as the Tribunal determines is just and proper."; and

- (d) by omitting paragraph (2A) and substituting the following paragraph:

"(2A) In determining a payment under paragraphs (1A), (1B) or (1C) no regard shall be had to -

- (a) a pension or allowance in respect of a child dependent upon the earnings of the workman;
- (b) deferred pay payable to the workman; or
- (c) a payment, allowance or benefit that is payable to the workman by his employer under the terms of an award, order or determination of an industrial authority, under the terms of an industrial agreement or under the terms of the contract of service or apprenticeship between the workman and his employer whereby provision is made, in the event of the workman being totally or partially incapacitated for work in circumstances to which this Ordinance applies, for the payment by the employer to the workman

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of a weekly amount equal to the amount ascertained or calculated in accordance with those terms less the weekly amount payable as compensation under this Ordinance."

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