

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 69 of 1979

## AN ACT

To amend the Workmen's Compensation Act

[Assented to 26 June 1979]

**B**E 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. This Act may be cited as the Workmen's Compensation Act (No. 2) 1979.

Short  
title

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

Principal  
Act

3. This Act shall come into operation on the date of, but immediately after, the commencement of the Workmen's Compensation Act 1979.

Commencement

4. Nothing in this Act shall affect the liability of an insurer under a policy of insurance or indemnity entered into prior to the commencement of this Act.

Liability to  
continue

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

Interpretation

(a) omitting from the definition of "approved insurer" the word "Minister" and substituting "Commissioner";

(b) inserting after the definition of "Chairman" the following definition:

"'Commissioner' means the Commissioner of Insurers appointed under section 17H;"  
and

(c) inserting after the definition of "inspector" the following definitions:

"'insurance business' does not include life insurance business;

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'insurer' means a person who undertakes, proposes to undertake or agrees or offers to enter into a contract to undertake liability, by way of insurance (other than re-insurance), in respect of any loss or damage, including liability to pay damages or compensation, contingent upon the happening of a specified event;".

Offences in  
relation to  
inspectors

6. Section 16C of the Principal Act is amended by omitting "Penalty: 100 dollars" and substituting "Penalty: \$200".

7. The Principal Act is amended by inserting after section 17G the following sections:

Commission-  
er

"17H. The Minister may appoint an employee, within the meaning of the Public Service Act, to be the Commissioner of Insurers.

Application  
for  
approval of  
insurer

"17J.(1) An insurer may apply in writing to the Commissioner for approval by the Commissioner for the purposes of this Act.

"(2) Subject to sub-sections (4) and (5), the Commissioner may grant approval to an insurer referred to in sub-section (1), for the purposes of this Act, if he is satisfied -

(a) that the insurer has an office and address in the Territory used or intended to be used for the purpose of conducting insurance business and intends to maintain that office for that purpose during the period in respect of which the approval is given;

(b) that the office referred to in paragraph (a) is managed or is otherwise under the control of an employee of the insurer authorized by the insurer to -

(i) prepare and enter into contracts of insurance and indemnity;

(ii) accept and settle claims under policies of insurance or indemnity; and

(iii) make payments under policies of insurance or indemnity,

on behalf of the insurer; and

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- (c) from information supplied by the insurer, that the insurer has or intends to have a continuous level of direct investment in the Territory that is satisfactory to the Commissioner.

"(3) Without limiting the generality of sub-section (2), the Commissioner shall, before granting or refusing to grant approval or renewal of approval for the purposes of this Act, take into consideration such other matters as may be prescribed.

"(4) An approval under sub-section (2) shall not be unreasonably withheld.

"(5) Subject to this Act, where an insurer is approved for the purposes of this Act, the approval shall continue in force for a period of one year commencing on the date on which the approval is granted under sub-section (2).

"(6) An approved insurer may, not less than 42 days before the date of the expiry of the approval granted under sub-section (2), apply in writing to the Commissioner for a renewal of that approval.

"(7) The Commissioner -

- (a) shall consider an application under sub-section (5) for renewal of approval as if that application were an application under sub-section (1); and
- (b) may grant a renewal of approval as if that approval was an approval referred to in sub-section (4).

"(8) Where an approved insurer -

- (a) fails to comply with a provision of section 17K, 17L or 18; or
- (b) requires, in writing, the Commissioner to revoke an approval granted under this section,

the Commissioner may, in his discretion, revoke the approval.

"(9) The revocation of the approval of an insurer shall not -

- (a) annul a policy of insurance issued before the revocation; or

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	(b) diminish or otherwise affect the liability of the insurer under a policy referred to in paragraph (a).
Additional information to be supplied	"17K.(1) The Commissioner may direct an insurer who has made an application under section 17J to provide him with such information as the Commissioner thinks fit relating to the matters referred to in section 17J(2)(a), (b), (c) and (3).  "(2) An insurer referred to in sub-section (1) shall not fail to comply with a direction under that sub-section to the extent that he is capable of complying with it.  "Penalty: \$10,000.
Offence by insurers	"17L.(1) A person who is not an approved insurer shall not -  (a) advertise or hold himself out to be -  (i) an approved insurer; or  (ii) a person who undertakes insurance business in the Territory; or  (b) undertake or offer to undertake insurance business.  "Penalty: \$50,000.  "(2) All money received, in respect of the conduct of insurance business in the Territory, by a person convicted of an offence under sub-section (1) shall be forfeited to the Territory.  "(3) Nothing in this section affects the liability of an insurer by or under a contract of insurance or indemnity entered into by him."
Compulsory insurance	8.(1) Section 18(1) of the Principal Act is amended by omitting "Minister" (wherever occurring) and substituting "Commissioner".  (2) Section 18 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:  "(1AA) In a prosecution for an offence against sub-section (1) in which it is alleged that an employer was not, at a particular time, the holder of a policy of insurance or indemnity, the allegation of that fact in the complaint is prima facie evidence of that fact.

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(3) Section 18(1A) of the Principal Act is amended by omitting "Minister" and substituting "Commissioner".

(4) Section 18(2) of the Principal Act is amended by omitting "Minister" (twice occurring) and substituting "Commissioner".

(5) Section 18 of the Principal Act is amended by omitting sub-sections (9A), (9B), (9C), (9D), (9E), (10), (11) and (12).

9.(1) Notwithstanding the amendments effected by this Act, an insurer who was an approved insurer within the meaning of the Principal Act as in force immediately before the Workmen's Compensation Act 1979 shall be deemed to be approved and to have all the powers, functions and obligations of an approved insurer for the purposes of the Principal Act as amended by this Act, until such time as an application by that insurer for approval under the Principal Act as amended by this Act has been granted or refused by the Commissioner or the period of 3 months after the commencement of this Act has expired, whichever is the earlier.

Transition-  
al

(2) Notwithstanding the amendments effected by this Act, an employer who was, immediately before the commencement of this Act, authorized under section 18(1) of the Principal Act to undertake the liability to pay compensation to his own workmen shall be deemed to be authorized under section 18(1) of the Principal Act, as amended by this Act, to undertake that liability until the expiration of 3 months after the commencement of this Act or the Commissioner, in accordance with that section, authorizes him so to do, whichever is the earlier.



