

Serial 305
Work Health Amendment Bill 2001
Mr Baldwin

**A BILL
for
AN ACT**

to amend the *Work Health Act*



NORTHERN TERRITORY OF AUSTRALIA
WORK HEALTH AMENDMENT ACT 2001

No. of 2001

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SCHEDULE





NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the *Work Health Act*

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Work Health Amendment Act 2001*.

2. Principal Act

The *Work Health Act* is in this Act referred to as the Principal Act.

3. Nominal Insurer's Fund

Section 162 of the Principal Act is amended –

(a) by omitting subsection (3)(b) and substituting the following:

"(b) contributions paid under this Division by approved insurers, self-insurers and employers;"; and

(b) by adding at the end the following:

"(4) The Nominal Insurer may borrow money, from sources and on terms and conditions approved by the Minister, to be paid into the Nominal Insurer's Fund."

4. Repeal and substitution

Section 164 of the Principal Act is repealed and the following substituted:

"164. Annual estimates, determinations etc.

"(1) As soon as practicable in the financial year commencing 1 July 2001 and in each subsequent financial year, the Nominal Insurer –

- (a) must estimate the total of the amounts already paid and the amounts to be paid from the Fund during that financial year;
- (b) must determine the amounts (if any) to be set aside to meet expenditure from the Fund in future years and specify the purpose or purposes for which each amount is to be set aside;
- (c) must estimate the total of the amounts already received and the amounts to be received into the Fund during that financial year, other than contributions from approved insurers and self-insurers under section 164A;
- (d) may recommend a total amount to be contributed to the Fund under section 164A by approved insurers and self-insurers during that financial year, as determined after having regard to the amount standing to the credit of the Fund at the beginning of that year including –
 - (i) amounts set aside in earlier years as provision to meet expenditure in later years; and
 - (ii) the amount estimated to be received into the Fund during the year otherwise than from approved insurers and self-insurers under section 164A; and
- (e) must submit in writing to the Minister for his or her approval the estimates, determinations and recommendation (if any) referred to in paragraphs (a), (b), (c) and (d).

"(2) The estimates, determinations and recommendation of the Nominal Insurer referred to in subsection (1) do not have effect until they are approved by the Minister.

"164A. Contributions by approved insurers and self-insurers

"(1) If the Minister approves a recommendation of the Nominal Insurer made under section 164(1)(d), each approved insurer and self-insurer must contribute to the Fund an amount that is equal to a percentage, determined by the Nominal Insurer in accordance with subsection (2), of –

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- (a) in the case of an approved insurer – the premium income (whether received by or owing to the insurer) of the approved insurer in respect of policies of insurance or indemnity effected with the approved insurer by employers in the preceding financial year in compliance with section 126(1); and
- (b) in the case of a self-insurer – the premium that would have been payable by the self-insurer if he or she had obtained, in respect of that year, or the part of that year during which he or she was a self-insurer, a policy in accordance with section 126(1).

"(2) The percentage determined by the Nominal Insurer for the purposes of subsection (1) is to be –

- (a) such as, in the opinion of the Nominal Insurer, will be sufficient to yield the total amount to be contributed to the Fund by approved insurers and self-insurers during the then current financial year as determined under section 164(1)(d); and
- (b) uniform for all approved insurers and self-insurers.

"(3) An approved insurer or self-insurer must pay to the Nominal Insurer the amount that he or she is required by this section to contribute to the Fund in the instalments, and at the times, that are determined by the Nominal Insurer.

"(4) The Nominal Insurer must, in writing, notify each approved insurer and self-insurer of particulars of the contribution, including the amounts of the instalments and the times at which they are payable, that the approved insurer or self-insurer is required by this section to contribute to the Fund.

"(5) If an approved insurer or self-insurer fails to pay the full amount of an instalment within 30 days after the time specified in a notice under subsection (4) –

- (a) the full amount of the contribution to be paid or the full amount of the balance then remaining unpaid (as applicable) is immediately payable and is a debt due to the Nominal Insurer by the approved insurer or self-insurer; and
- (b) the approved insurer or self-insurer is guilty of a regulatory offence.

Penalty: 100 penalty units.

"164B. Contributions by employers

"(1) The Minister may determine that all employers are required to make contributions to the Fund.

"(2) If the Minister makes a determination under subsection (1), each employer must contribute to the Fund an amount that is equal to a percentage, determined by the Minister, of –

(a) in the case of an employer who holds a policy of insurance or indemnity under section 126(1) –

(i) the premium payable by the employer in accordance with the policy; or

(ii) the total amount of wages payable by the employer in relation to the policy as included in the statement given under section 130; and

(b) in the case of an employer who is a self-insurer –

(i) if the Minister makes a determination under paragraph (a)(i) – the premium that would have been payable by the employer if he or she were the holder of a policy of insurance or indemnity under section 126(1); or

(ii) if the Minister makes a determination under paragraph (a)(ii) – the total amount of wages that would, if the employer were the holder of a policy of insurance or indemnity under section 126(1), have been included in a statement given under section 130 in relation to the policy.

"(3) An employer who, on the date on which a determination under subsection (1) takes effect –

(a) holds a policy of insurance or indemnity under section 126(1); or

(b) by virtue of subsection (2)(b) is taken to hold a policy of insurance or indemnity under section 126(1),

must, in respect of that policy, contribute to the Fund a proportion of the amount referred to in subsection (2) calculated in accordance with the formula –

$$\frac{A}{366}$$

where "A" is the number of days in the period commencing on the day on which the determination takes effect and ending on the day on which the policy expires.

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"(4) For the purposes of this section, a policy taken to be held by a self-insurer by virtue of subsection (2)(b) is to be taken to be for the insurance or indemnity period of 12 months commencing on 1 July in each year.

"(5) An employer who is a self-insurer must pay directly to the Nominal Insurer the amount he or she is required to contribute to the Fund under this section.

"(6) An employer who holds a policy of insurance or indemnity under section 126(1) must pay to the employer's insurer the amount he or she is required to contribute to the Fund under this section.

"(7) An approved insurer must, within 14 days after the end of each month –

- (a) pay to the Nominal Insurer all money received under subsection (6); and
- (b) provide the Nominal Insurer with a written statement setting out each amount received under subsection (6) and any other particulars that are prescribed.

"(8) The Minister must cause to be published in the *Gazette* a determination made under subsection (1) specifying –

- (a) the amount that each employer must contribute to the Fund, expressed as the percentage determined by the Minister under subsection (2)(a)(i) and (b)(i) or under subsection (2)(a)(ii) and (b)(ii); and
- (b) the date on which the determination takes effect.

"(9) The Minister may vary or revoke a determination published under subsection (8)."

5. Further amendments

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

SCHEDULE

Section 5

Provision	Amendment	
	omit	substitute
Section 165(1)	"section 164(6) or (7)"	"section 164A"
	"section 164(3)"	"section 164A"
	"section 164(5)"	"section 164A"
Section 165(2)	"section 164(6)"	"section 164A"