

Serial 127  
Return to Work Legislation Amendment Bill 2015  
Mr Styles

A Bill for an Act to amend the *Return to Work Act* and *Return to Work Regulations*



NORTHERN TERRITORY OF AUSTRALIA

RETURN TO WORK LEGISLATION AMENDMENT ACT 2015

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Act No. [ ] of 2015

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2015

An Act to amend the *Return to Work Act* and *Return to Work Regulations*

[Assented to [ ] 2015  
[Second reading [ ] 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 *Return to Work Legislation Amendment Act 2015*.

### 2 Commencement

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

## Part 2 Amendment of Return to Work Act

### 3 Act amended

This Part amends the *Return to Work Act*.

### 4 Section 3 amended

(1) Section 3(1), definition *injury*

*omit*

## (2) Section 3(1)

*insert (in alphabetical order)*

**adequate policy of insurance or indemnity**, for Part 7, Division 3, see section 126.

**approved insurer** means an insurer approved under section 119(2).

**claimant** means a person claiming or being paid compensation.

**conference**, for Part 6A, Division 1, see section 103A.

**dispute**, for Part 6A, Division 1, see section 103A.

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

**former Fund**, for Part 7, see section 117.

**Fund**, see section 117.

**injury**, see section 3A.

**jurisdiction** means a State or a Territory of the Commonwealth and, in a geographical sense, includes the adjacent area of the State or Territory as prescribed by regulation.

**management action**, in relation to a worker, includes one or more of the following:

- (a) appraisal of the worker's performance;
- (b) counselling of the worker;
- (c) stand down of the worker, or suspension of the worker's employment;
- (d) disciplinary action taken in respect of the worker's employment;
- (e) transfer of the worker's employment;
- (f) demotion, redeployment or retrenchment of the worker;
- (g) dismissal of the worker;
- (h) promotion of the worker;
- (i) reclassification of the worker's employment position;



- (j) provision to the worker of a leave of absence;
- (k) provision to the worker of a benefit connected with the worker's employment;
- (l) training a worker in respect of the worker's employment;
- (m) investigation by the worker's employer of any alleged misconduct:
  - (i) of the worker; or
  - (ii) of any other person relating to the employer's workforce in which the worker was involved or to which the worker was a witness;
- (n) communication in connection with an action mentioned in paragraphs (a) to (m).

**mediator** means a mediator appointed under section 103C(1).

**Nominal Insurer** means the Nominal Insurer established by section 150(1).

**out of or in the course of his or her employment**, see section 4.

**party**, for Part 6A, Division 1, see section 103A.

**prohibition notice**, see section 7KA(3).

**rehabilitation**, in relation to an injured worker, means a process designed to:

- (a) ensure the worker's return to work as soon as practicable; or
- (b) maximise the worker's ability to live independently.

**Rules** means the court rules as defined in section 3 of the *Work Health Administration Act*.

**weekly payment** means a weekly payment of compensation.

- (3) Section 3(1), definition insurer, after "out"

*insert*

and, in Part 5, Division 5, includes the Nominal Insurer

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**5 Section 3A inserted**

After section 3

*insert*

**3A Injury**

- (1) An ***injury***, in relation to a worker, is a physical or mental injury arising out of or in the course of the worker's employment and includes:
- (a) a disease; and
  - (b) the aggravation, acceleration, exacerbation, recurrence or deterioration of a pre-existing injury or disease.
- (2) Despite any other provision of this Act, a mental injury is not considered to be an injury for this Act if it is caused wholly or primarily by one or more of the following:
- (a) management action taken on reasonable grounds and in a reasonable manner by or on behalf of the worker's employer;
  - (b) a decision of the worker's employer, on reasonable grounds, to take, or not to take, any management action;
  - (c) any expectation by the worker that any management action would, or would not, be taken or any decision made to take, or not to take, any management action.

**6 Section 4 amended**

- (1) Section 4(1)(a) to (g)

*omit, insert*

- (a) on a working day on which the worker attends at the worker's workplace:
  - (i) is present at the workplace; or
  - (ii) having been present at the workplace, is temporarily absent on that day in the course of employment or during an ordinary recess and does not during that absence voluntarily subject himself or herself to an abnormal risk of injury; or

- (b) is travelling by the shortest convenient route between the worker's place of residence and a workplace that is not the worker's normal or usual workplace at the request of the worker's employer; or
  - (c) is travelling by the shortest convenient route between the worker's place of residence and a workplace if:
    - (i) the worker is required by the worker's employer to work outside the worker's normal hours of work; and
    - (ii) in accordance with the terms of the worker's employment, the worker is paid, in whole or in part, for the time taken to travel to the workplace; or
  - (d) is in attendance at a trade, technical or other training school that the worker is required to attend by the terms of employment or as an apprentice, or that the worker is otherwise expected to attend by the employer; or
  - (e) is travelling by the shortest convenient route between:
    - (i) the worker's place of residence or workplace; and
    - (ii) any other place for any of the following purposes, in connection with an injury for which the worker is entitled to receive compensation:
      - (A) obtaining a statement of fitness for work;
      - (B) receiving medical, surgical or hospital advice, attention or treatment;
      - (C) submitting to a medical examination required under this Act;
      - (D) receiving a payment of compensation; or
  - (f) is in attendance at a place referred to in paragraph (e)(ii) for a purpose so referred to.
- (2) Section 4(2)
- omit*
- (1)(c)(ii) or

- (3) Section 4(2A)(a), at the end  
*insert*  
or
- (4) Section 4(2A)(b) and (c)  
*omit, insert*
- (b) is travelling between the worker's place of residence and a place referred to in subsection (1)(e)(ii).
- (5) Section 4(2B) and (3)  
*omit, insert*
- (3) Despite any other provision of this Act, an injury to a worker is taken to arise ***out of or in the course of his or her employment*** if the injury is to a worker in a class of worker prescribed by regulation, subject to any limitation prescribed by regulation.
- (6) Section 4(6)(a)  
*omit, insert*
- (a) it is prescribed by the Regulations to be a particular disease, or a disease of a particular kind, specified by the Regulations as being related to employment of a particular kind; and

## **7 Section 5A inserted**

After section 5, in Part 1

*insert*

### **5A Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against the following provisions of this Act:

- (a) section 7KD;
- (b) section 65C;
- (c) section 75A;
- (d) section 92;
- (e) section 103H;

(f) section 126AA;

(g) section 126AB.

*Note for section 5A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **8 Part 2, Division 2, Subdivision 2A inserted**

After section 7K

*insert*

### **Subdivision 2A Prohibition notices**

#### **7KA Power to issue prohibition notice**

- (1) This section applies if an inspector reasonably believes that a policy of insurance or indemnity required by section 126AA(1) is not in force for an employer who is not a self-insurer.
- (2) The inspector may give the employer a direction prohibiting the carrying on of the employer's business until an inspector is satisfied that the employer holds the required policy.
- (3) The direction may be given orally, but must be confirmed by written notice (a **prohibition notice**) issued to the employer as soon as practicable after the oral direction.

#### **7KB Contents of prohibition notice**

A prohibition notice must:

- (a) state that the inspector believes that the employer does not hold the required policy of insurance or indemnity and the reasons for that belief; and
- (b) include a statement of the effect of section 7KC.

#### **7KC When employer obtains policy**

- (1) An employer to whom a direction is given under section 7KA(2) or a prohibition notice is issued may, at any time, give evidence to an inspector that the employer is the holder of the required policy of insurance or indemnity.

- (2) As soon as practicable after the inspector receives the evidence, the inspector must review the evidence and do one of the following:
  - (a) if satisfied that the employer holds the required policy – give the employer written notice that the prohibition notice is no longer in force;
  - (b) otherwise – give the employer written notice as to the deficiencies in the evidence or the policy.
- (3) A notice under subsection (2)(b) is considered to be a prohibition notice.

#### **7KD Compliance with prohibition notice**

- (1) An employer commits an offence if the employer contravenes a direction given to the employer under section 7KA(2).

Maximum penalty: 100 penalty units

- (2) An offence against subsection (1) is an offence of strict liability.

#### **7KE Continuing offence**

- (1) This section applies if a court has found a person guilty of an offence against section 7KD.
- (2) The court may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 10 penalty units for each day during which the offence continues after the day the offence is committed.

### **9 Section 50AA inserted**

After section 50, in Part 5, Division 1

*insert*

#### **50AA Accredited vocational rehabilitation providers in other jurisdictions**

Despite section 50, a person or body is considered to be an accredited vocational rehabilitation provider for this Act to the extent that they provide vocational rehabilitation services to an injured worker:

- (a) if the person or body is an accredited vocational rehabilitation provider (by whatever name called) under the law of another jurisdiction; and

- (b) if the services are provided to the injured worker in that jurisdiction.

**10 Section 53AA amended**

Section 53AA(9)

*omit*

**11 Section 61B inserted**

After section 61A, in Part 5, Division 3, Subdivision AA

*insert*

**61B Notice of change of entitlement to compensation**

- (1) This section applies when a statutory event is about to occur in relation to compensation payable to a worker.
- (2) The employer of the worker must give the worker notice of the following:
  - (a) the date on which the statutory event is scheduled to occur;
  - (b) an explanation of the effect of the statutory event on the compensation payable to the worker;
  - (c) unless the statutory event is one mentioned in paragraph (a) of the definition **statutory event** in subsection (5) – a statement of the effect of section 61A.
- (3) The notice must be in writing and given to the worker by:
  - (a) delivering it personally to the worker; or
  - (b) placing it in a properly addressed envelope and leaving it with a person who has apparently attained the age of 16 years at the worker's address as shown in the claim form given to or served on the employer under section 82; or
  - (c) sending it in a properly addressed envelope by pre-paid post to the worker at the worker's address as mentioned in paragraph (b), in which case the notice is considered to have been given when the envelope is posted.

- (4) Despite any other provision of this Act, the change to the compensation payable to the worker that results from the occurrence of the statutory event takes effect on the later of the following days:
- (a) the day that is 14 days after the employer gives the notice to the worker;
  - (b) the day on which the statutory event occurs.
- (5) In this section:

**statutory event**, in relation to compensation payable to a worker for an injury, means one of the following:

- (a) the end of the last of the weeks during which compensation is to be paid to the worker under section 64;
- (b) the end of the last week in the period of 260 weeks in the aggregate mentioned in section 65(1BA);
- (c) the attainment of the worker's normal retiring age or future pension age, as relevant, as mentioned in section 65(1D);
- (d) the end of the 104 weeks mentioned in section 65(1D)(c).

## **12 Section 62 amended**

Section 62(5), definition **expert financial advice**

*omit*

## **13 Section 65A replaced**

Section 65A

*repeal, insert*

### **65A Compensation not payable to prisoner**

- (1) A worker is not entitled to be paid compensation under section 64 or 65 during any period during which the worker is:
- (a) a prisoner; or
  - (b) a person who is:



- (i) detained in a prison or other correctional facility (however described) in a place outside the Territory; or
  - (ii) otherwise a person who is in a place outside the Territory in circumstances in which, if the worker were in the Territory, the worker would be a prisoner.
- (2) Subsection (1) does not apply to a worker mentioned in subsection (1)(a) if the Territory is not liable to maintain the worker as mentioned in section 115 of the *Correctional Services Act*.
- (3) Subsection (1) does not apply to a worker mentioned in subsection (1)(b)(ii) if, under the law of the place in which the worker is, there is no liability to maintain the worker for reasons similar to those mentioned in section 115 of the *Correctional Services Act*.
- (4) In this section:
- prisoner***, see section 6 of the *Correctional Services Act*.

#### **14 Section 65C inserted**

After section 65B

*insert*

#### **65C Employer not to dismiss worker**

- (1) An employer of a worker commits an offence if:
- (a) the worker is totally or partially incapacitated for work as a result of an injury; and
  - (b) the employer intentionally engages in conduct during the relevant period; and
  - (c) the conduct results in the dismissal of the worker; and
  - (d) the employer is reckless as to whether the worker is totally or partially incapacitated for work as a result of the injury.

Maximum penalty: 200 penalty units

- (2) Strict liability applies to subsection (1)(a) and (c).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the reason for the dismissal is serious misconduct by the worker.

(4) In this section:

**dismissal**, of a worker, includes a situation in which:

- (a) an unreasonable employment condition is imposed on the worker that is designed to make the worker leave employment; and
- (b) the worker leaves the employment.

**relevant period**, for an employer of a worker who is totally or partially incapacitated for work as a result of an injury, means the period:

- (a) that starts on the day on which the injury occurs; and
- (b) that ends 6 months after that day.

**serious misconduct** means:

- (a) wilful or deliberate behaviour by a worker that is inconsistent with the continuation of the worker's contract of employment; or
- (b) conduct that causes serious and imminent risk to:
  - (i) the health or safety of a person; or
  - (ii) the reputation, viability or profitability of the employer's business; or
- (c) engaging in theft, fraud or assault in the course of employment; or
- (d) being intoxicated in the workplace, including being too impaired to work because of alcohol or a drug, other than a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug; or
- (e) refusal to carry out a reasonable instruction from the employer that is consistent with the worker's contract of employment.

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**15 Section 73 replaced**

Section 73

*repeal, insert*

**73 Compensation for medical, surgical and rehabilitation treatment, family counselling and other costs**

- (1) Subject to this Part and the Regulations, the employer of a worker who sustains an injury is liable to pay any costs reasonably incurred by the worker as a result of that injury for any one or more of the following:
  - (a) medical, surgical and rehabilitation treatment (those costs being not more than the relevant amount set out in any guidelines published by the Authority);
  - (b) hospitalisation and hospital treatment;
  - (c) travelling, or being transported, to or from any place for the purpose of medical, surgical and rehabilitation treatment, hospitalisation or hospital treatment;
  - (d) accommodation of the worker if it is necessary for the worker to be accommodated away from the worker's normal place of residence for the purpose of medical, surgical or rehabilitation treatment;
  - (e) attendance by a registered nurse or enrolled nurse, or by some other person if, because of the injury, it is necessary for the worker to have nursing or personal attendance;
  - (f) any other costs as are prescribed by regulation.
- (2) Subject to this Part and the Regulations, the employer of a worker who sustains an injury is liable to pay any costs reasonably incurred by the worker for family counselling provided to the worker or to one or more members of the worker's immediate family.
- (3) The costs mentioned in subsection (2) are payable:
  - (a) in the case of a family counselling provided to the worker – in addition to any costs payable under subsection (1); and
  - (b) only to the extent that the total of the costs incurred under subsection (2) for the worker and all members of the worker's immediate family does not exceed 150% of average weekly earnings at the time the costs are incurred.

- (4) An employer who decides to dispute that particular costs incurred by a worker mentioned in subsection (1) or (2) are reasonably incurred as a result of an injury must, within 14 days of the decision to dispute the reasonableness of the costs, serve on the worker:
- (a) a written notice stating:
    - (i) that the employer believes that the treatment or family counselling does not relate to the injury or is not required; and
    - (ii) the reasons for the employer's belief; and
  - (b) a statement of the rights of appeal under this Act; and
  - (c) if the belief is that the treatment is not required – an opinion of a medical practitioner supporting the employer's belief.
- (5) If the dispute relates to costs incurred under subsection (1), the employer must also serve the following on the worker's medical practitioner:
- (a) a copy of the written notice mentioned in subsection (4)(a);
  - (b) if applicable – a copy of the opinion mentioned in subsection (4)(c).
- (6) In this section:

**family counselling** means counselling that:

- (a) is provided to a worker, or a member of the worker's immediate family, to assist the worker or family member to cope with the psychological impact of the injury sustained by the worker's injury; and
- (b) is provided:
  - (i) individually to the worker or a member of the worker's immediate family; or
  - (ii) to a group all the members of which are the worker and one or more members of the worker's immediate family; and
- (c) is provided by:
  - (i) a medical practitioner, registered psychologist or social worker; or

- (ii) a counsellor who has qualifications recognised by the Authority.

**16 Part 5, Division 3, Subdivision E repealed**

Part 5, Division 3, Subdivision E

*repeal*

**17 Sections 75 and 75A replaced**

Sections 75 and 75A

*repeal, insert*

**75 Purpose of Division**

The purpose of this Division is to ensure the rehabilitation of an injured worker following an injury.

**75A Employer to assist injured worker to find suitable employment**

- (1) An employer who is liable under this Part to compensate an injured worker must do the following:
- (a) take reasonable steps to ensure that suitable employment is provided to the worker in accordance with the worker's statement of fitness for work;
  - (b) take reasonable steps to ensure that efforts to retrain the worker are undertaken if required to enable the worker to engage in the suitable employment;
  - (c) give a proposal in writing for a detailed return to work plan to the worker within 7 days after the employer becomes aware that the worker's total or partial incapacity is likely to exceed 28 days.
- (2) An employer commits an offence if:
- (a) the employer intentionally engages in conduct; and
  - (b) the conduct results in the contravention of subsection (1)(a) or (b).
- Maximum penalty: 200 penalty units
- (3) Strict liability applies to subsection (2)(b).

- (4) An employer who contravenes subsection (1)(c) commits an offence.

Maximum penalty: 100 penalty units

- (5) An offence against subsection (4) is an offence of strict liability.

- (6) For subsection (1)(a):

- (a) employment is suitable for a worker if it requires the worker to perform work for which the worker is fit as specified in the worker's statement of fitness for work, taking the following matters into account:

- (i) the worker's age;
- (ii) the worker's experience, training and other skills;
- (iii) the worker's potential for rehabilitation training;
- (iv) the worker's language skills;
- (v) the impairments suffered by the worker; and

- (b) the provision of suitable employment includes the referral of the worker to the alternative employer incentive scheme developed by the Authority if the employer does not have other suitable employment available.

- (7) If the worker is working with another employer under the alternative employer incentive scheme, the worker's employer is liable to compensate the worker for any aggravation, acceleration or exacerbation of the injury that occurs within 1 year after the worker commences employment with the other employer.

## **18 Part 5, Division 4A inserted**

After section 78

*insert*

### **Division 4A Settlement by agreement of entitlement to compensation**

#### **78A Settlement by agreement**

- (1) Unless a regulation provides otherwise, a claimant may enter into an agreement of one of the following types, instead of being paid all amounts otherwise payable to the claimant under this Act in respect of an injury:

- (a) an agreement with the employer for payment of a lump sum;
  - (b) an agreement with the employer for a structured settlement.
- (2) If such an agreement becomes enforceable under this section, the claimant is not entitled to any future payments under this Act in respect of the injury to which the claimant's compensation relates.
- (3) An agreement relating to the payment of compensation, other than an agreement under this Division, is void.
- (4) Subject to subsection (5), an agreement under subsection (1) becomes enforceable when it is entered into if the following conditions are met before the agreement is entered into:
- (a) the employer invites the claimant to obtain independent legal advice and pays the reasonable costs of the legal practitioner chosen by the claimant to provide that advice;
  - (b) the employer invites the claimant to obtain expert financial advice and to pay the reasonable costs of the person chosen by the claimant to provide that advice;
  - (c) the claimant confirms to the employer in writing that:
    - (i) the claimant has received the advice mentioned in paragraph (a); and
    - (ii) the claimant either has received the advice mentioned in paragraph (b) or does not wish to receive that advice.
- (5) If an agreement under subsection (1) is entered into in respect of payments for a period that starts before 104 weeks after the claimant first becomes entitled to compensation:
- (a) the claimant may withdraw from the agreement at any time during the cooling-off period; and
  - (b) the claimant may request further advice of the kind mentioned in subsection (4)(a) or (b), or both, at any time during the cooling-off period; and
  - (c) the employer must pay the reasonable costs of that advice; and
  - (d) if, after that advice is received, the claimant requests an amendment to the agreement – the agreement is subject to the amendment being made in a way that is acceptable to the claimant and the employer.

(6) In this section:

**cooling-off period**, in relation to an agreement under subsection (5), means a period that:

- (a) starts on the day on which the agreement is entered into; and
- (b) ends 6 months after that day.

**structured settlement** means an agreement between a claimant and an employer providing for the payment of amounts otherwise payable under this Act in respect of an injury by one or both of the following means:

- (a) periodic payments funded by an annuity or other agreed means;
- (b) periodic payments in respect of future reasonable expenses for medical, hospital, pharmaceutical or attendant care services, payable as those expenses are incurred.

#### **78B Lump sum agreement for particular period**

- (1) A claimant may enter into an agreement with the employer for payment of a lump sum instead of being paid all amounts otherwise payable under this Act during a period in respect of an injury.
- (2) Such an agreement may contain conditions on the payment of the lump sum, including conditions relating to one or more the following uses for part of the sum:
  - (a) education or other acquisition or development of new skills by the claimant, including skills related to the claimant becoming self-employed;
  - (b) retraining or job-seeking activities carried out by the claimant;
  - (c) modifications to the workplace to enable the claimant to return to work;
  - (d) payment of carers, including during periods of travel for the claimant.
- (3) If such an agreement is entered into, no person is entitled to any payments under this Act in respect of the period and the injury to which the claimant's compensation relates.



- (4) Despite subsection (3), the worker may claim a payment under this Act for the period and the injury to which the compensation relates if the worker can demonstrate that:
- (a) the lump sum was inadequate to compensate the worker with respect to rehabilitation and other needs under this Act or to which the employer agreed; or
  - (b) the worker incurred expenses beyond those that were contemplated by the worker and the employer when the agreement was entered into.

## **19 Section 79 repealed**

Section 79

*repeal*

## **20 Section 84 amended**

- (1) Section 84(1)(a)

*omit, insert*

- (a) where the employer is a self-insurer – forward a copy of the claim to the Authority; and
- (ab) if the employer is uninsured – forward the claim to the Nominal Insurer and a copy of the claim to the Authority; and

- (2) Section 84(3)

*omit, insert*

- (3) Despite sections 81 and 82, a person making a claim for compensation for an injury may lodge the claim with the relevant insurer or the Authority if the person becomes aware that the employer:
- (a) has not complied or is not likely to comply with subsection (1)(a) or (b); or
  - (b) is refusing to receive the claim; or
  - (c) cannot be identified; or
  - (d) cannot be found; or
  - (e) is dead; or
  - (f) is a corporation which has been wound up; or

(g) is uninsured.

**21 Section 85 amended**

(1) Section 85(1)

*omit*

An employer

*insert*

Subject to subsection (10), an employer

(2) Section 85(4)(c)

*omit, insert*

(c) if the claim is for weekly payments:

(i) subject to subparagraph (ii), sections 75A(1) and 75B apply during the period of deferral to the employer and the worker as if the employer had accepted liability for the compensation claimed; and

(ii) if the claim does not relate to an injury involving mental stress – the employer is not required to bear the expense, under section 75B, of either or both of the following:

(A) hospitalisation (including surgery while the worker is hospitalised);

(B) the worker travelling, or being transported, to and from any place outside the Territory for the purpose of hospitalisation.

(3) Section 85(7)(d), after "claimed"

*insert*

, unless the Court otherwise orders because the Court has found that:

(i) the worker or the person making the claim has acted dishonestly; or

(ii) the claim was fraudulently made; or

- 
- (iii) the worker or the person making the claim has obstructed or delayed the process for the employer's making the decision

- (4) After section 85(9)

*insert*

- (10) If an employer is uninsured, a reference to the employer in this section is to be read as a reference to the Nominal Insurer.

## **22 Section 87 amended**

After section 87(3)

*insert*

- (4) An employer who fails to notify a claimant of a decision mentioned in subsection (1)(a) or (2)(a) is considered to have accepted liability for compensation:
  - (a) effective on the day that is 10 working days after the employer commences making payments or providing a benefit by operation of this section and section 85; and
  - (b) whether or not the employer further notifies the claimant as mentioned in section 85(1).

## **23 Part 6 inserted**

After section 91A

*insert*

### **Part 6 Misleading information and statements**

#### **92 Misleading information**

- (1) A person commits an offence if:
  - (a) the person intentionally makes a statement to the employer of an injured worker, or to the insurer of that employer; and
  - (b) the person knows the statement contains misleading information; and

- (c) the result of the making of the statement is that an insurer, a self-insurer or the Nominal Insurer makes a payment or provides a benefit that they would not have made or provided if the statement had not been made.

Maximum penalty: 200 penalty units.

- (2) A person commits an offence if:

- (a) the person intentionally gives a document to the employer of an injured worker, or to the insurer of that employer; and
- (b) the person knows the document contains misleading information; and
- (c) the result of the giving of the document is that an insurer, a self-insurer or the Nominal Insurer makes a payment or provides a benefit that they would not have made or provided if the statement had not been so given.

Maximum penalty: 200 penalty units.

- (3) A person commits an offence if:

- (a) the person intentionally makes or alters a document; and
- (b) the person knows the document contains misleading information; and
- (c) the person is reckless as to whether the document could be used in relation to a claim for compensation; and
- (d) the document is provided directly or indirectly to an employer or the employer's insurer; and
- (e) the result of the provision of the document is that an insurer, a self-insurer or the Nominal Insurer makes a payment or provides a benefit that they would not have made or provided if the document had not been so provided.

Maximum penalty: 200 penalty units.

- (4) Strict liability applies to subsections (1)(c), (2)(c) and (3)(d) and (e).
- (5) In this section:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

---

**24 Section 103A amended**

Section 103A, definitions ***claimant***, ***mediator***, ***Rules*** and ***teleconferencing***

*omit*

**25 Section 103BA inserted**

After section 103B

*insert*

**103BA Internal dispute resolution process**

- (1) A person who is an approved insurer, a self-insurer or the Nominal Insurer must ensure that they:
  - (a) prepare and publish an internal dispute resolution process that is available to be used by claimants; and
  - (b) implement the process.
- (2) The internal dispute resolution process must comply with any relevant guidelines published by the Authority.

**26 Section 103D amended**

After section 103D(2A)

*insert*

- (2AB) A party must comply with a notice under subsection (2A) within 7 days after receiving the notice.

**27 Section 103F amended**

Section 103F(5)

*omit, insert*

- (5) A party who is not legally represented:
  - (a) is entitled to be accompanied at a conference by another person who is not a lawyer (the ***support person***) and to consult with the support person during the conference; and
  - (b) is not entitled to be represented at the conference by the support person.

- (5A) However, the mediator may agree to a claimant being represented by the support person at the conference if satisfied that to do so would facilitate the conduct of the mediation.
- (5B) If the mediator agrees to the claimant being represented by the support person, the mediator must notify the other parties of that agreement before taking a step or, if the mediation has commenced, a further step, in the mediation.

**28 Section 103FA inserted**

After section 103F

*insert*

**103FA Legal representation or legal advice**

- (1) If the dispute relates to a decision of a type mentioned in section 103B(a) or (b), and the mediator agrees to a claimant having legal representation as mentioned in section 103F(3):
- (a) the claimant may choose the legal practitioner who is to represent them; and
  - (b) the mediator may, if of the opinion that to do so would facilitate the conduct of the mediation, by written notice to the Authority, make a recommendation in accordance with subsection (3).
- (2) If the dispute relates to a decision of a type mentioned in section 103B(a) or (b), the mediator may recommend, by written notice, that the Authority direct the employer to pay the reasonable costs of legal advice received by the claimant, even if the mediator does not agree to the claimant having legal representation.
- (3) The mediator may recommend, in the written notice under subsection (1)(b) or (2), that the Authority direct the employer to pay:
- (a) if the recommendation is under subsection (1)(b) – one or both of the following:
    - (i) the reasonable costs of the legal representation;
    - (ii) the reasonable costs of legal advice received by the claimant before the mediator agreed to the legal representation; or
  - (b) if the recommendation is under subsection (2) – the reasonable costs of the legal advice.

- (4) The Authority must do one of the following:
- (a) by written notice given to an employer, direct the employer to pay the reasonable costs mentioned in subsection (3)(a)(i) or (ii) or (b);
  - (b) by written notice given to the claimant and the mediator, inform them that the Authority has decided not to follow the recommendation.
- (5) A notice under subsection (4)(a):
- (a) must specify the maximum amount of the reasonable costs payable by the employer (not to exceed the amount of average weekly earnings at the time of the notice); and
  - (b) may specify the date before which those reasonable costs are payable.
- (6) An employer may pay an amount greater than the maximum amount mentioned in subsection (5)(a).

## **29 Section 103H replaced**

Section 103H

*repeal, insert*

### **103H Offences**

- (1) A party commits an offence if:
- (a) the mediator requires a party to do one or more of the following:
    - (i) attend a conference;
    - (ii) provide specified written information to the mediator or another party;
    - (iii) provide specified written information to the mediator or another party within a specified time; and
  - (b) the party does not comply with the requirement.
- Maximum penalty: 100 penalty units.
- (2) A party commits an offence if:
- (a) the party receives a notice under section 103D(2A); and

(b) the party does not comply with the notice.

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant has a reasonable excuse.

### **30 Section 108 repealed**

Section 108

*repeal*

### **31 Section 117 amended**

Section 117, definitions ***approved insurer*** and ***Nominal Insurer***

*omit*

### **32 Section 119 amended**

Section 119(2), after "approval,"

*insert*

on any conditions the Authority considers appropriate,

### **33 Section 120 amended**

Section 120(2), after "approval,"

*insert*

on any conditions the Authority considers appropriate,

### **34 Section 120A inserted**

After section 120

*insert*

### **120A Variation of conditions**

- (1) The Authority may, on its own initiative, vary the conditions of an approval under section 119 or 120.



- (2) Before varying the conditions, the Authority must give the insurer or employer written notice:
  - (a) explaining the proposed variation; and
  - (b) stating the reasons for the proposed variation; and
  - (c) inviting the insurer or employer to submit a response to the proposed variation within 28 days after the date of the notice.
- (3) The Authority may, having considered any response mentioned in subsection (2)(c), vary the conditions of the approval as proposed in the notice or in another way the Authority considers appropriate.
- (4) As soon as practicable after deciding to vary the conditions under subsection (3), the Authority must give a written notice to the insurer or employer:
  - (a) explaining the variation; and
  - (b) stating the date on which the variation takes effect (which must not be sooner than 7 days after the notice is given).
- (5) The variation takes effect on the date mentioned in the notice under subsection (4).
- (6) Subsections (2) to (5) do not apply if the variation is for a formal or clerical reason that does not alter the substance of the conditions.

### **35 Section 121 amended**

After section 121(3)

*insert*

- (4) If the Authority renews an approval, the Authority may renew the approval on any conditions that it considers appropriate, whether or not there were conditions imposed on the original approval.

### **36 Section 126 replaced**

Section 126

*repeal, insert*

### **126 Definition**

In this Division:

***adequate policy of insurance or indemnity***, in relation to an employer, means a policy of insurance or indemnity that is:

- (a) issued by an approved insurer; and
- (b) for the full amount of the employer's liability under this Act to all workers employed by the employer; and
- (c) for an amount of not less than the amount prescribed by regulation in respect of the employer's liability, independent of this Act, for an injury to a worker in the employer's employ.

#### **126AA Employer must have adequate insurance**

- (1) An employer, other than a self-insurer, must do the following:
  - (a) obtain an adequate policy of insurance or indemnity;
  - (b) ensure that the adequate policy of insurance or indemnity is in force when the employer carries on business and employs one or more workers.
- (2) An employer who contravenes subsection (1) commits an offence.  
Maximum penalty: 100 penalty units.
- (3) An offence against subsection (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (2) if the Court is satisfied that at the time of the alleged offence:
  - (a) the employer believed on reasonable grounds that the employer could not be liable under this Act in respect of the worker because the worker was not a Territory worker; and
  - (b) there was in force for the employer, in respect of the worker's employment, insurance or registration required in respect of liability for statutory workers compensation under the law of the jurisdiction with which the employer believed on reasonable grounds that the worker's employment was connected.
- (5) An additional penalty may be imposed on an employer who is guilty of an offence against subsection (2).
- (6) The additional penalty must be an amount that does not exceed the amount of the premium that would have been payable by the employer to obtain and maintain in force an adequate policy of insurance or indemnity for the relevant period.

- (7) For subsection (6), the relevant period is:
- (a) if the period during which the employer did not have the adequate policy of insurance or indemnity in force is 2 years or more – the last 2 years of the period; or
  - (b) otherwise – the period during which the employer did not have the adequate policy of insurance or indemnity in force.

**126AB Approved insurer must issue or renew policy**

- (1) An approved insurer must not, except with the consent in writing of the Authority, refuse to issue to an employer, or renew, an adequate policy of insurance or indemnity if the employer has:
- (a) applied for the policy or the renewal of the policy; and
  - (b) tendered the premium for the policy; and
  - (c) complied with the approved conditions.

- (2) An approved insurer who contravenes subsection (1) commits an offence.

Maximum penalty: 100 penalty units.

- (3) An approved insurer commits an offence if:
- (a) the approved insurer issues to an employer an adequate policy of indemnity or insurance; and
  - (b) the policy contains a provision other than a provision that:
    - (i) is prescribed by regulation; or
    - (ii) is in relation to the employer's liability at common law or under any other law of the Territory and is appropriate for the particular employer and the particular policy; or
    - (iii) complies with a condition imposed by the Authority under section 119, 120 or 121, or imposed by the Authority by way of variation of conditions under section 120A.

Maximum penalty: 100 penalty units

- (4) An offence under subsection (2) or (3) is an offence of strict liability
- (5) It is a defence to a prosecution for an offence against subsection (2) or (3) if the defendant has a reasonable excuse.

- 
- (6) A contravention of subsection (2) or (3) does not annul the policy of insurance or diminish or affect the liability of the insurer to the person insured under the policy.
- (7) An insurer under an adequate policy of insurance or indemnity is liable under the policy as if the policy were in accordance with subsection (3) even if the insurer is not an approved insurer.

**37 Section 129 amended**

Section 129(1)

*omit*

Schedule 2

*insert*

the Regulations

**38 Sections 167 to 169 replaced**

Sections 167 to 169

*repeal, insert*

**167 Claims for payment against Nominal Insurer when employer dead, wound up, etc.**

Subject to this Part and Part 5, a person may make a claim for compensation against the Nominal Insurer if the following conditions are met:

- (a) the person claims to be entitled to compensation from an employer:
- (i) who employed a worker at the time the worker sustained a compensable injury; or
  - (ii) if the compensable injury is a disease – who last employed the worker in the employment that caused the disease;
- (b) the employer is dead, cannot be located or, in the case of a company, has been wound up;
- (c) the approved insurer of that employer cannot be identified;
- (d) a principal contractor, within the meaning of section 127, is not liable under that section to pay the compensation.

---

**39 Section 170 amended**

- (1) Section 170(1)  
*omit*  
section 167(1)  
*insert*  
Part 5 or section 167
- (2) Section 170(1)(a)  
*omit*  
referred to in that section
- (3) Section 170(1)(b)  
*omit*  
referred to in section 167(1)(b)
- (4) Section 170(2)  
*omit*  
under section 167(1) or (2)  
*insert*  
mentioned in subsection (1)
- (5) Section 170(2)(a), after "claim"  
*insert*  
, if made under section 167,
- (6) Section 170(2)(b) and (c)  
*omit*  
sections 75A and 84  
*insert*  
section 75A

---

**40 Section 171 amended**

Section 171(1)

*omit*

167(1)

*insert*

84(3)

**41 Section 172 amended**

(1) Section 172(1)

*omit*

section 167

*insert*

this Act

(2) Section 172(3)

*omit*

Part

*insert*

Act

**42 Section 173 amended**

(1) Section 173

*omit*

section 167(1)

*insert*

this Act

(2) Section 173(b)

*omit*

employer.

*insert*

employer; or

(3) After section 173(b)

*insert*

(c) a person who may recover compensation from a principal contractor under section 127, if the principal contractor has or had a policy of insurance or indemnity obtained in accordance with this Act to cover the principal contractor's liability in respect of the claim.

#### **43 Section 181 amended**

After section 181(1)(b)

*insert*

(ba) a mediator appointed under section 103C(1);

#### **44 Section 186A amended**

Section 186A(4)

*omit, insert*

(4) A reference in this section to a contract or agreement is not to be taken to include a reference to an agreement under section 78A or 78B.

#### **45 Part 14 inserted**

After section 205

*insert*

### **Part 14 Transitional matters for Return to Work Legislation Amendment Act 2015**

#### **206 Definitions**

In this Part:

***amending Act*** means the *Return to Work 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 after the commencement.

**207 Application of section 3A**

- (1) Section 3A, as inserted by the amending Act, applies in relation to an injury suffered by a worker only if the injury is a post-commencement injury.
- (2) The definition ***injury*** in section 3, 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.

**208 Limitation for post-commencement injury**

- (1) The following provisions, as amended or inserted 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 4;
  - (b) section 61B;
  - (c) section 65C;
  - (d) section 73;
  - (e) section 75A;
  - (f) section 84;
  - (g) section 85;
  - (h) section 87;
  - (i) section 103F;
  - (j) section 167;
  - (k) section 170;
  - (l) section 171;
  - (m) section 172;
  - (n) section 173.



- (2) The provisions mentioned in subsection (1)(a), and (d) to (n), 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.

## **209 Offence provisions – before and after commencement**

- (1) An offence provision, as amended by the amending Act, applies only in relation to offences committed after the commencement of the offence provision (the **offence commencement**).
- (2) Section 75A, as in force before the offence commencement, continues to apply in relation to offences against that section committed before that offence commencement.
- (3) Section 103H, as in force before the offence commencement, continues to apply in relation to offences against that section committed before that offence commencement.
- (4) For this section, if any of the conduct constituting an offence occurred before the offence commencement, the offence is taken not to have been committed after the offence commencement.
- (5) In this section:

**offence provision** means:

- (a) any of the following provisions:
- (i) section 7KD;
  - (ii) section 65C;
  - (iii) section 75A;
  - (iv) section 92;
  - (v) section 103H;
  - (vi) section 126AA;
  - (vii) section 126AB; or
- (b) any provision that relates to offences against the provisions mentioned in paragraph (a) (including in relation to criminal responsibility, defences and penalties).

**46 Schedules 1 to 2 repealed**

Schedules 1 to 2

*repeal*

**Part 3 Amendment of Return to Work Regulations**

**47 Regulations amended**

This Part amends the *Return to Work Regulations*.

**48 Regulations 3 and 3AA inserted**

After regulation 2

*insert*

**3 Definitions**

In these Regulations:

***infringement notice***, see regulation 20.

***infringement notice offence***, see regulation 19(1).

***prescribed amount***, for an infringement notice offence, see regulation 19(2).

**3AA Prescribed adjacent areas**

For the definition ***jurisdiction*** in section 3(1) of the Act, the prescribed adjacent areas of States and Territories are those set out in Schedule 1.

**49 Regulation 3A amended**

(1) Regulation 3A(1)

*omit*

section 3

*insert*

section 3(1)

## (2) Regulation 3A(1)(b)

*omit, insert*

(b) a natural person who is authorised by a club, within the meaning of Part III of the *Racing and Betting Act*:

- (i) to ride or drive a horse or pony (whether or not for a fee or reward) on a racecourse licensed under that Part, or in an area adjacent to the racecourse where horses are usually worked or trained, while the person is so authorised; or
- (ii) to provide services (whether or not for a fee or reward) as a stablehand on a racecourse or in an area mentioned in subparagraph (i) while the person is so authorised; and

**50 Regulations 5AA and 5AB inserted**

After regulation 5

*insert*

**5AA Prescribed class of worker and prescribed limitation**

For section 4(3) of the Act, police officers are prescribed to be a class of worker, subject to the limitation that the injury occurs, in each case, while the worker is travelling by the shortest convenient route between the worker's place of residence and the worker's workplace.

**5AB Prescribed diseases**

For section 4(6)(a) of the Act, the diseases and kinds of diseases, and the kinds of employment related to those diseases, are those prescribed and specified in Schedule 2.

**51 Regulation 6AA amended**

Regulation 6AA(1)

*omit*

section 62(5)

*insert*

the definition ***expert financial advice*** in section 3(1)

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**52 Regulation 15 replaced**

Regulation 15

*repeal, insert*

**15 Prescribed indemnity**

For paragraph (c) of the definition ***adequate policy of insurance or indemnity*** in section 126 of the Act, \$2,000,000 is the prescribed amount.

**15A Prescribed provisions for policy of indemnity or insurance**

For section 126AB(3)(b)(i) of the Act, the prescribed provisions are those set out in Schedule 3.

**53 Regulations 19 to 24 and Schedules 1 to 4 inserted**

After regulation 18

*insert*

**19 Infringement notice offence and prescribed amount payable**

- (1) An ***infringement notice offence*** is an offence against a provision specified in Schedule 4.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount equal to the monetary value of the number of penalty units specified for the offence in Schedule 4.

**20 When infringement notice may be given**

If an inspector reasonably believes a person has committed an infringement notice offence, the inspector may give a notice (an ***infringement notice***) to the person.

**21 Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person, if known;
  - (b) the date the infringement notice is given to the person;
  - (c) the date, time and place of the infringement notice offence;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;

- (f) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
  - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
    - (i) suspending the person's licence to drive;
    - (ii) seizing personal property of the person;
    - (iii) deducting an amount from the person's wages or salary;
    - (iv) registering a statutory charge on land owned by the person;
    - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b).

## **22 Payment by cheque**

If the person tenders a cheque in payment of the prescribed amount, the amount is not taken to have been paid unless the cheque is cleared on first presentation.

## **23 Withdrawal of infringement notice**

- (1) The Authority may withdraw the infringement notice by written notice given to the person.

- (2) The notice must be given:
- (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

## 24 Application of regulations 19 to 23

- (1) Regulations 19 to 23 do not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been given unless the offence is expiated.
- (2) Also, those regulations do not:
- (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

## Schedule 1 Adjacent areas

regulation 3AA

### 1 Definitions

In this Schedule:

**continental shelf**, see the *Seas and Submerged Lands Act 1973* (Cth).

**Joint Petroleum Development Area**, see the *Petroleum (Timor Sea Treaty) Act 2003* (Cth).

**territorial sea**, see the *Seas and Submerged Lands Act 1973* (Cth).

## 2 Adjacent areas

- (1) The adjacent area for New South Wales, Victoria, South Australia or Tasmania is so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to that State as is within the outer limits of the continental shelf and includes the space above and below that area.
- (2) The adjacent area for Queensland is:
  - (a) so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to Queensland as is within the outer limits of the continental shelf; and
  - (b) the Coral Sea area (within the meaning of section 7(2) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)) other than the territorial sea within the Coral Sea area; and
  - (c) the areas within the outer limits of the territorial sea adjacent to certain islands of Queensland as determined by proclamation on 9 February 1983 under section 7 of the *Seas and Submerged Lands Act 1973* (Cth); and
  - (d) the space above and below the areas described in paragraphs (a), (b) and (c).
- (3) The adjacent area for Western Australia is so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to Western Australia as:
  - (a) is within the outer limits of the continental shelf; and
  - (b) is not within the Joint Petroleum Development Area;and includes the space above and below that area.
- (4) The adjacent area for the Northern Territory is:
  - (a) so much of the scheduled area described in Schedule 1 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth) in relation to the Northern Territory as:
    - (i) is within the outer limits of the continental shelf; and
    - (ii) is not within the Joint Petroleum Development Area; and

- (b) the offshore area for the Territory of Ashmore and Cartier Islands (within the meaning of section 7(1) of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth)) other than the territorial sea within that area; and
- (c) the space above and below the areas described in paragraphs (a) and (b).
- (5) However, the adjacent area for a State or Territory does not include any area inside the limits of any State or Territory.

## Schedule 2 Prescribed diseases and kinds of employment

regulation 5AB

Diseases and kinds of diseases	Kinds of Employment
1. Pneumoconioses caused by sclerogenic mineral dust (including silicosis, anthracosilicosis and asbestosis) and silico-tuberculosis, provided that silicosis is an essential factor in causing the resultant incapacity or death	All work involving exposure to the risk concerned
2. Bronchopulmonary diseases caused by hard-metal dust	All work involving exposure to the risk concerned
3. Bronchopulmonary diseases caused by cotton dust (byssinosis) or flax, hemp or sisal dust	All work involving exposure to the risk concerned
4. Diseases caused by beryllium or its toxic compounds	All work involving exposure to the risk concerned
5. Diseases caused by cadmium or its toxic compounds	All work involving exposure to the risk concerned
6. Diseases caused by phosphorus or its toxic compounds	All work involving exposure to the risk concerned
7. Diseases caused by chromium or its toxic compounds	All work involving exposure to the risk concerned



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8.	Diseases caused by manganese or its toxic compounds	All work involving exposure to the risk concerned
9.	Diseases caused by arsenic or its toxic compounds	All work involving exposure to the risk concerned
10.	Diseases caused by mercury or its toxic compounds	All work involving exposure to the risk concerned
11.	Diseases caused by lead or its toxic compounds	All work involving exposure to the risk concerned
12.	Diseases caused by fluorine or its toxic compounds	All work involving exposure to the risk concerned
13.	Diseases caused by carbon bisulphide	All work involving exposure to the risk concerned
14.	Diseases caused by the toxic halogen derivatives of aliphatic or aromatic hydrocarbons	All work involving exposure to the risk concerned
15.	Diseases caused by benzene or its toxic homologues	All work involving exposure to the risk concerned
16.	Diseases caused by nitro-and amino-derivatives of benzene or its homologues	All work involving exposure to the risk concerned
17.	Diseases caused by nitroglycerin or other nitric acid esters	All work involving exposure to the risk concerned
18.	Diseases caused by asphyxiants; carbon monoxide, hydrogen cyanide or its toxic derivatives, hydrogen sulphide	All work involving exposure to the risk concerned
19.	Hearing impairment caused by noise	All work involving exposure to the risk concerned

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20.	Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)	All work involving exposure to the risk concerned
21.	Diseases caused by work in compressed air	All work involving exposure to the risk concerned
22.	Diseases caused by ionizing radiations	All work involving exposure to the action of ionizing radiations
23.	Primary epitheliomatous cancer of the skin caused by tar, pitch, bitumen, mineral oil, anthracene, or the compounds, products or residues of these substances	All work involving exposure to the risk concerned
24.	Lung cancer or mesotheliomas caused by asbestos	All work involving exposure to the risk concerned
25.	Brucellosis, Leptospirosis and Q fever	Employment at, in, about or in connection with a meat works or involving the handling of meat, hides, skins or carcasses
26.	Anthrax infection	<p>Work in connection with animals infected with anthrax.</p> <p>Handling of animal carcasses or parts of animal carcasses including hides, hoofs and horns</p> <p>Loading and unloading or transport of merchandise</p>
27.	Hepatitis A and B	Employment in or connected with a hospital or other medical or dental centre or blood bank, including laboratory work

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28.	A.I.D.S.	Employment in or connected with a hospital or other medical or dental centre or blood bank, including laboratory work
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**Schedule 3 Prescribed provisions for compulsory insurance**

regulation 15A

Estimated Wages, \$    Premium, \$  
(Subject to adjustment as

provided below)

Whereas by virtue of the *Return to Work Act* (hereinafter called the Act) it is provided that every employer shall obtain from an insurer approved by the Work Health Authority (hereinafter called the Authority) for the purposes of the Act, a policy of insurance or indemnity for the full amount of his or her liability under the Act to all workers employed by him or her and for an amount of not less than \$2,000,000 in respect of his or her liability independently of the Act for an injury to a worker in his or her employ and shall maintain such policy in force; and whereas

of

(hereinafter called the Employer) is carrying on business for the purpose of this Indemnity in the Northern Territory of Australia, and has made to \_\_\_\_\_, an insurer approved by the Authority for the purposes of the Act (hereinafter called the Insurer), a written proposal and declaration, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, containing certain particulars and statements which it is hereby agreed shall be the basis of this contract and be considered as incorporated herein.

Now this policy witnesseth that in consideration of the payment by the Employer to the Insurer of the abovementioned premium (which premium is subject to adjustment as hereinafter provided) if, between the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and 4 o'clock in the afternoon of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and thereafter to 4 o'clock in the afternoon of the last day of any subsequent period in respect of which the premium has been paid to and accepted by the Insurer, the Employer shall be liable to pay compensation under the Act to or in respect of any person who is or is deemed by the Act to be a worker of such employer, or to pay an amount not exceeding \$ \_\_\_\_\_ in respect of his or her liability independently of the Act for an injury to a worker in his or her employ, then and in every such case, the Insurer will indemnify the Employer against all such sums for which the

Employer shall be so liable; the Insurer will also pay all costs and expenses incurred with the written consent of the Insurer in connection with the defence of any legal proceedings in which such liability is alleged. Provided that this policy shall not extend to any business or occupation other than that described herein, unless and until such particulars thereof shall have been supplied to and accepted by the Insurer and the acceptance of such extension endorsed hereon by the Insurer. And it is hereby further agreed that the above indemnity is made subject to the due and proper observance and fulfilment by the Employer of the conditions hereunder. Provided lastly that this policy shall be subject to the Act and the Rules and Regulations made thereunder, all of which shall be deemed to be incorporated in and form part of this policy.

#### Conditions

#### NOTICES

1. Every notice or communication to be given or made under this policy shall be delivered in writing at the office of the Insurer from which the policy has been issued.

#### CLAIMS

2. The Employer shall give notice to the Insurer of any injury to which the policy relates as soon as practicable after information as to the happening of the injury, or of any incapacity arising therefrom, comes to the knowledge of the Employer or of the Employer's representative for the time being, and shall forward to the Insurer forthwith after receipt thereof every written notice of claim, conferences or proceedings and all information as to any verbal notice of claim, conferences or proceedings.

#### EMPLOYER NOT TO MAKE ADMISSIONS

3. The Employer shall not, without the written authority of the Insurer, incur any expense of litigation, or make a payment, settlement or admission of liability in respect of an injury to or claim made by a worker.

#### DEFENCE OF PROCEEDINGS

4. The Insurer shall in respect of anything indemnified under this policy, including the bringing, defending, enforcing or settling of legal proceedings for the benefit of the Insurer, be entitled to use the name of the Employer. The Employer shall give all necessary information and assistance, and forward all documents to enable the Insurer to settle or resist a claim as the Insurer may think fit.

### SUBROGATION

5. The Insurer shall be entitled to use the name of the Employer in proceedings to enforce, for the benefit of the Insurer, an order made for costs or otherwise, and shall have the right of subrogation, in respect of all rights which the Employer may have against a person or persons who may be responsible to the Employer or otherwise in respect of a claim for an injury covered by this policy, and the Employer shall as and when required execute the necessary documents for the purpose of vesting such rights in the Insurer.

### PRECAUTIONS

6. The Employer shall take all reasonable precautions to prevent injuries.

### INJURIES

7. So far as practicable, no alteration or repair shall, without the consent of the Insurer, be made in any ways, works, machinery or plant after an injury to a worker occurring in connection therewith until the Insurer has had an opportunity of examining them.

### INSPECTION

8. The Insurer shall have the right and opportunity at all reasonable times to inspect the works, machinery, plant and appliances used in the Employer's business.

### PREMIUM

9. The first and every subsequent premium that may be accepted shall be regulated by the amount of wages, salaries and all other forms of remuneration paid or allowed to workers during each period of indemnity.

### WAGES BOOKS MUST BE KEPT

10. The names and earnings of every worker employed by the Employer shall be entered regularly in a proper wages book, so that a record may exist of such workers as are entitled to call upon the Employer for compensation.

### ADJUSTMENT OF PREMIUM

11. The Employer shall at all times allow a person duly authorized by the Insurer to inspect the wages book, and shall supply the Insurer with a correct account of all wages, salaries and other forms of remuneration paid or allowed during a period of indemnity within 28 days after the expiry of such period of indemnity, and if the total amount differs from the amount on which premium has been paid, the difference in premium shall be met by a further proportionate payment to the Insurer or by a refund by the Insurer, as the case may be, subject always to the retention by the Insurer of the minimum premium stated in the proposal.

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### ASSIGNMENT

12. No assignment of interest under this policy shall bind the Insurer unless the written consent of the Insurer is endorsed hereon.

### CANCELLATION OF POLICY

13. The Insurer may at any time, by giving written notice to the Employer, cancel this policy. The notice of cancellation shall be posted to the Employer at the Employer's address shown in this policy, and the cancellation of the policy shall be effective on the expiration of 7 days after the date of posting the notice. Notwithstanding the cancellation of the policy, the Employer shall furnish a statement of wages showing the amount paid up to the time of cancellation, and the premium for the period of insurance prior to the cancellation shall be adjusted on a pro rata basis in the manner provided by Condition 11 of this policy; provided that the policy may not be cancelled without the prior consent of the Authority.

### NO WAIVER OF CONDITIONS

14. No condition or provision of this policy shall be waived or altered except with the prior consent of the Insurer endorsed hereon, nor shall notice to an agent, nor shall knowledge possessed by an agent, or by any person, be held to effect a waiver or alteration in this contract or any part of it.

## **Schedule 4    Infringement notice offences and prescribed amounts**

regulation 19

Provision	Prescribed amount in penalty units (individual)	Prescribed amount in penalty units (body corporate)
<b><i>Return to Work Act</i></b>		
section 7KD(1)	3	15
section 75A(4)	4	20
section 103H(1) or (2)	2	10
section 126AA(1)	4	20
section 130(2)	1	5

**Part 4 Expiry of Act**

**54 Expiry of Act**

This Act expires on the day after it commences.