



Australian Capital Territory

Workers Compensation Supplementation Fund Act 1980

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Workers Compensation Supplementation Fund Act 1980* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 5 April 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Workers Compensation Supplementation Fund Act 1980

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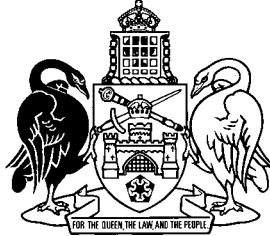
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Australian Capital Territory

Workers Compensation Supplementation Fund Act 1980

An Act to establish the Workers Compensation Supplementation Fund for the payment of certain workers compensation claims, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Workers Compensation Supplementation Fund Act 1980*.

2 Definitions for Act

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

In this Act:

approved insurer—see the Compensation Act, dictionary.

chairperson means the chairperson of the committee.

committee means the insurers advisory committee established by section 13.

Compensation Act means the *Workers Compensation Act 1951*.

compulsory insurance policy—see the Compensation Act, dictionary.

employer—see the Compensation Act, section 5.

fund means the Workers Compensation Supplementation Fund of the Australian Capital Territory established by section 3.

liquidator, in relation to an approved insurer, includes official manager, receiver or receiver and manager.

manager means the manager of the fund under section 8.

member means a member of the committee, and includes the chairperson.

supervising insurer, in relation to a claim made under this Act, means an insurer appointed by the manager under section 30 to be the supervising approved insurer in relation to that claim.

the court means the Magistrates Court.

worker—see the Compensation Act, dictionary.

Part 2 Workers Compensation Supplementation Fund

3 Establishment of fund

- (1) The Workers Compensation Supplementation Fund of the Australian Capital Territory is established.
- (2) The fund shall consist of—
 - (a) moneys received by the manager under part 4 or 6; and
 - (b) income derived from the investment of moneys of the fund; and
 - (c) moneys recovered by or on behalf of the manager under this Act; and
 - (d) moneys borrowed for the fund; and
 - (e) such other moneys as may lawfully be paid into the fund.
- (3) Each account kept by the manager under subsection (3) must contain in its title the words ‘Workers Compensation Supplementation Fund Account’.
- (4) Each account maintained by the manager under subsection (3) shall contain in its title the words ‘Workers’ Compensation Supplementation Fund Account’.

4 Investment of moneys of fund

- (1) Subject to subsection (2), the manager shall invest in any manner in which trust funds may for the time being be invested under the *Trustee Act 1957* those moneys of the fund that are not, in the opinion of the manager, immediately required for the purpose of making payments out of the fund in accordance with this Act.

- (2) The manager shall not invest moneys of the fund in any manner that does not return interest at a rate at least equal to the rate of interest paid in relation to interest bearing deposits by banks operating in the Territory.

5 Borrowing for fund

The manager may, with the consent of the Minister, borrow moneys for the fund.

6 Audit

- (1) The manager shall keep full and proper records and accounts in relation to the moneys constituting the fund.
- (2) The manager shall cause the accounts of the fund to be audited annually, or at such times as the Minister may direct, by an auditor who is a registered company auditor within the meaning of the Corporations Act.
- (3) The manager shall, within 28 days after receiving the report of each audit under this section, forward a copy of the report to the Minister.

7 Payments out of fund

- (1) The manager may pay out of the fund—
- (a) any amounts required by this Act to be paid in settlement of any claim made under this Act; and
 - (b) the amount of any costs or fees payable under this Act to the liquidator of an approved insurer or to a supervising insurer and such other costs and expenses as are incurred by the manager in the settlement of claims made under this Act; and
 - (c) any amount payable under section 8A, 25 or 25B; and
 - (d) any amount required to be paid by way of repayment or interest in relation to any moneys borrowed by the manager, in accordance with this Act, for the fund; and

- (e) the amount of any costs and expenses incurred in, or in connection with, the administration of the fund.
- (2) The manager must pay out of the fund any amount the Minister directs be transferred to the terrorism cover temporary reinsurance fund under the *Workers Compensation Act 1951*.
- (3) Subsection (2) and this subsection expire on 1 October 2006.

Part 3 Administration

8 Manager of fund

- (1) There shall be a manager of the fund.
- (2) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the manager of the fund.
- (3) The manager shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

8A Reimbursement of Territory in respect of manager's remuneration

There is payable out of the fund to the Territory, as soon as practicable after the end of each financial year, an amount determined by the Minister in writing to be the aggregate of—

- (a) that proportion of the remuneration of that person as a public servant that is referable to his or her performance of the functions of manager; and
- (b) the sum of any other costs or expenses borne by the Territory as a consequence of his or her performance of those functions.

10 Evidence

- (1) All courts, judges and persons acting judicially shall take judicial notice of the signature of a person who performs, or who has performed, the functions of the manager of the fund and of the fact that he or she performs, or has performed, those functions.
- (2) For the purposes of this Act, a document that purports to be signed by the manager is to be taken to be signed by the manager, unless the contrary is proved.

11 Removal of manager from office

- (1) The Minister may at any time remove the manager from office for misbehaviour or physical or mental incapacity.
- (2) If the manager—
 - (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) is convicted in Australia of an offence punishable by imprisonment for 1 year or longer;the Minister shall remove the manager from office.

12 Powers of manager

- (1) The manager has power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions under this Act and in particular, without limiting the generality of the foregoing—
 - (a) to appoint approved insurers as supervising insurers for the purposes of the investigation and negotiation of the terms of settlement of claims made under this Act; and
 - (b) to take any necessary action to recover moneys payable into the fund and such debts as may be incurred against the fund; and
 - (c) to enter into agreements for the purpose of borrowing moneys for the fund in accordance with this Act; and
 - (d) to incur any necessary legal and other costs in actions pursuant to the operation of the fund; and
 - (e) to refund any moneys that are refundable under this Act; and
 - (f) to invest moneys of the fund in accordance with this Act.

13 Insurers advisory committee

- (1) A committee is hereby established to be known as the Insurers Advisory Committee.
- (2) The function of the committee is to advise the manager, as required under this Act or at the request of the manager, in the performance of the manager's functions or the exercise of his or her powers under this Act.

14 Members of committee

- (1) The committee shall consist of 3 members nominated by the approved insurers or a majority of them.
- (2) Each member of the committee—
 - (a) shall be appointed by the Minister; and
 - (b) shall, subject to this Act, hold office for such period as is specified in the instrument of his or her appointment; and
 - (c) shall be eligible for reappointment.
- (3) Where a vacancy occurs in the membership of the committee as the result of a member ceasing to hold office at any time before the expiration of the period of the member's appointment, the Minister may appoint a person nominated in accordance with subsection (1) for the unexpired portion of the period of that member's appointment.

15 Chairperson

- (1) The members shall, from time to time as the occasion requires, elect 1 of their number to be the chairperson of the committee.
- (2) The chairperson holds office for a period of 1 year from the date of his or her election, unless he or she ceases to be a member, and is eligible for re-election.

- (3) Where a chairperson is elected in accordance with subsection (1), the chairperson shall notify the Minister in writing of his or her election as chairperson.
- (4) The chairperson may resign the office of chairperson in writing signed by him or her delivered to the Minister.

16 Remuneration

- (1) Subject to this section, a member is not entitled to be paid in respect of duties or functions performed by the member under this Act.
- (2) A member is entitled to reimbursement for any expenses reasonably incurred by the member in the performance of his or her duties or functions under this Act.

17 Removal of member from office

- (1) The Minister may at any time remove a member from office for misbehaviour or physical or mental incapacity.
- (2) The Minister shall remove a member from office—
 - (a) if the member becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (b) if the member is convicted in Australia of an offence punishable by imprisonment for 1 year or longer; or
 - (c) if the member is absent, without leave granted under section 19, from 3 consecutive meetings of the board; or
 - (d) if the Minister is requested to do so by a majority of insurers present at a meeting of approved insurers convened by the manager.

18 Meetings

- (1) A meeting of the committee shall be convened by the chairperson.
- (2) The Minister may, by notice in writing given to each member, direct that a meeting of the committee be held at the time and place specified in the notice.
- (3) The chairperson shall preside at all meetings of the committee and has a deliberative vote only.
- (4) At a meeting of the committee a quorum is constituted by 2 members, of whom 1 is the chairperson.
- (5) Questions arising at a meeting of the committee shall be determined by a majority of the votes of the members present and voting.
- (6) Subject to this Act, the procedure of the committee shall be as the committee determines.

19 Leave of absence

- (1) The Minister may grant leave of absence to the chairperson upon such terms and conditions as the Minister determines.
- (2) The chairperson may grant leave of absence to another member for such period, not exceeding 1 year, and upon such terms and conditions as the chairperson determines.

20 Vacancy in membership

The performance of the functions of the committee is not affected by reason only of there being a vacancy in the membership of the committee.

21 Protection of manager and members of committee

An action or proceeding, civil or criminal, does not lie against the manager or a member of the committee for or in respect of any act or thing done in good faith by the manager or the member in his or her capacity as the manager or member, as the case may be.

Part 4 Contributions to fund

Division 4.1 Surcharge on compulsory insurance policies

22 Employers to pay surcharge

- (1) An employer who obtains a compulsory insurance policy from an approved insurer must pay to the insurer the prescribed surcharge for the policy.
- (2) For this section, the prescribed surcharge for a compulsory insurance policy is an amount equal to 10% (or, if a lesser percentage is determined in writing by the Minister, the lesser percentage) of the billed underwritten premium (the *premium*), not including GST, for the policy.
- (3) The prescribed surcharge applies to a premium or premium instalment at the rate in force—
 - (a) if the premium or instalment is paid early or on time—at payment; or
 - (b) if the premium or instalment is paid late—when the premium or instalment was payable.
- (4) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) An employer mentioned in subsection (1) must pay the prescribed surcharge when the employer pays the premium for the compulsory insurance policy.

- (6) If the employer pays the premium in instalments, the employer must pay the surcharge in corresponding instalments.

Examples

- 1 An employer's annual premium is \$600. If the prescribed surcharge is 10%, the surcharge of \$60 must be paid when the premium is paid, making a total payment of \$660.
- 2 An employer's annual premium is billed in monthly instalments of \$125. If the surcharge is 10%, the surcharge of \$12.50 must be paid with each monthly instalment, making a total monthly payment of \$137.50.
- 3 An employer is billed an additional premium of \$100 because of an adjustment of premium. If the prescribed surcharge is 10%, the surcharge of \$10 must be paid with the additional premium, making a total payment of \$110.
- 4 An employer pays an annual premium of \$1 000 on 1 July 2002. On 1 January 2003 a prescribed surcharge of 10% is introduced. The surcharge does not apply to the employer's already billed premium, but will apply at the prevailing rate when the next premium is paid on 1 July 2003.
- 5 An employer pays an annual premium of \$1 000 plus the 10% surcharge on 1 July 2002. On 1 January 2003 the surcharge is reduced to 5%. The decrease does not affect the surcharge already paid, but any adjustment of the premium billed after the reduction will incur the surcharge at the reduced rate.
- 6 An employer's premium for 2002-2003 is billed in monthly instalments of \$100, plus the 10% surcharge of \$10 (a total monthly payment of \$110), on the 10th of each month. On 1 January 2003, the surcharge is reduced to 5%. On 10 January 2003 the employer will have to pay the premium of \$100 plus a surcharge of \$5, making a total monthly payment of \$105.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

23 Exempt employers to pay surcharge

- (1) An employer granted an exemption under the Compensation Act, section 152 (Self-insurers) must pay to the manager an amount assessed by the manager on the advice of the committee.
- (2) The amount assessed by the manager under subsection (1) is the amount of the surcharge that would have been payable by the employer under this Act in relation to a compulsory insurance

policy if no exemption had been granted to the employer under the Compensation Act, section 152.

- (3) Payment under subsection (1) for a financial year must be made within 30 days after the end of the financial year, unless otherwise allowed by the manager.
- (4) The manager may allow payments mentioned in subsection (3) to be made in instalments.

24 Payments of amounts by approved insurer

- (1) An approved insurer shall, within 14 days after the end of each month—
 - (a) pay to the manager all amounts received by the insurer in pursuance of section 22 during that month; and
 - (b) forward to the manager a statement in writing setting out the amounts received by the insurer by way of premium in respect of compulsory insurance policies during that month and such other particulars(if any) as are prescribed.
- (2) A statement under subsection (1) (b) shall be certified by a statutory declaration made by the appropriate officer of the approved insurer.
- (3) The manager, or a person appointed in writing by the manager, may, at any reasonable hour of the day, enter the premises of an approved insurer and inspect any books or documents of the insurer relating to—
 - (a) any amounts received by the insurer in pursuance of section 22 or by way of premium in respect of compulsory insurance policies; or
 - (b) any statement forwarded to the manager by the insurer under this section.
- (4) The manager, or a person appointed by the manager under this section, is not authorised to remain on any premises or inspect any books or documents if, on being requested by the person in charge

of the premises to produce evidence in writing of his or her appointment as manager or his or her appointment under this section, as the case may be, the manager fails to do so.

- (5) A person shall not obstruct, threaten or intimidate the manager, or a person appointed by the manager under this section, in the exercise of his or her powers or functions under this section.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

25 Refunds

- (1) Where an employer is entitled to receive from an approved insurer a refund of any amount paid by way of premium in respect of a compulsory insurance policy, the insurer shall, in addition to any amount paid to the employer by way of refund of premium, pay to the employer by way of refund of the surcharge paid by the employer under section 22 an amount that represents a proportionate part of that surcharge.
- (2) Where an approved insurer pays an amount to an employer by way of refund under subsection (1), the manager shall, on application by the insurer, pay to the insurer out of the fund an amount equal to the amount so paid by the insurer.
- (3) Where the manager finds that there has been an overpayment into the fund of any amount payable under this Act, the manager shall cause to be paid out of the fund to the person who made the overpayment a refund of the amount by which the amount payable was so overpaid.

Division 4.2 Contributions by Territory

25A Territory contributions to fund

- (1) The Territory may contribute to the fund.
- (2) However, the Territory is not obliged to contribute to the fund and is not liable to pay, or contribute to the payment of, any claim against

the fund or any costs, expenses, fees or other amounts payable by the fund.

25B Repayment of Territory contributions to fund

- (1) If the Territory has made a contribution to the fund that has not been repaid to the Territory in full and the Treasurer is satisfied the fund contains an amount (the *surplus amount*) that is not needed to meet reasonably foreseeable claims against the fund, the Treasurer may in writing direct the manager to repay to the Territory so much of the Territory contribution as is not more than the surplus amount.
- (2) On receiving a direction under subsection (1), the manager must pay to the Territory the amount stated in the direction.

Part 5 Payment of claims

26 Claims against approved insurers and the fund

(1) If—

- (a) a final judgment has been given, or an order or award has been made, against an employer in respect of the employer's liability under the Compensation Act, or in respect of the employer's liability independently of that Act, for an injury to, or the death of, a worker employed by the employer; and
- (b) the liability of the employer under the judgment, order or award is covered by a compulsory insurance policy; and
- (c) the approved insurer who issued that policy is dissolved under a law of the Territory or of a State or another Territory or is unable to provide the indemnity required by the policy to be provided;

the person in whose favour the judgment was given or the order or award was made may make a claim—

- (d) where the insurer is dissolved—against the fund; or
- (e) in any other case—against the insurer;

for payment of the amount of the judgment, order or award.

(2) If—

- (a) a person is entitled to make a claim against an employer, not being a claim relating to a judgment, order or award referred to in subsection (1), that the employer is liable to pay compensation in accordance with the Compensation Act for an injury to, or the death of, a worker employed by the employer; and

(b) the liability of the employer to pay the compensation is covered by a compulsory insurance policy; and

(c) the approved insurer is dissolved under a law of the Territory or of a State or another Territory or is unable to provide the indemnity required by the policy to be provided;

the person may make a claim—

(d) where the insurer is dissolved—against the fund; or

(e) in any other case—against the insurer;

for payment of the amount of the compensation.

(3) A claim made against an approved insurer under subsection (1) or (2)—

(a) shall be in writing; and

(b) shall be lodged with the liquidator of the insurer, together with a copy of any judgment, order or award to which the claim relates.

(4) A claim made against the fund under subsection (1) or (2)—

(a) shall be in writing; and

(b) shall be lodged with the manager, together with a copy of any judgment, order or award to which the claim relates.

(5) In this section:

compensation includes an amount in settlement of a claim for compensation.

27 Liquidator to forward claims to manager

Where a claim against an approved insurer is lodged with the liquidator of an insurer under section 26 (3), the liquidator shall forthwith—

(a) forward a copy of the claim to the manager; and

- (b) furnish the manager with such information and documents (including any judgment, order or award) relating to the claim and to the compulsory insurance policy as are in the possession of the liquidator.

28 Payment of claims against approved insurers relating to judgments etc

- (1) Subject to this section, where the manager receives from the liquidator of an approved insurer a claim made against the insurer under subsection 26 (1), the manager shall—
 - (a) pay to the liquidator out of the fund—
 - (i) such amount as is necessary to enable the liquidator to satisfy the claim; and
 - (ii) such further amount as is agreed between the manager and the liquidator for payment of the costs of the liquidator in satisfying the claim; and
 - (b) furnish to the liquidator all documents in the possession of the manager relating to the claim.
- (2) On receipt of an amount paid by the manager under subsection (1) (a) (i), the liquidator shall pay the amount to the claimant in satisfaction of the claim.
- (3) Where the manager receives from the liquidator of an approved insurer a claim referred to in subsection (1) and the insurer is dissolved under the law of the Territory or of a State or another Territory before the manager makes a payment to the liquidator in accordance with that subsection, the manager shall pay to the claimant out of the fund such amount as is necessary to satisfy the claim.

29 Payment of claims against fund relating to judgments etc.

Where a claim made against the fund is lodged with the manager under section 26 (4), the manager shall pay to the claimant out of the fund such amount as is necessary to satisfy the claim.

30 Manager to appoint supervising insurer in certain cases

- (1) Where—
 - (a) the manager receives from the liquidator of an approved insurer a claim made against an insurer under section 26 (2); or
 - (b) a claim is made against the fund under that subsection;the manager shall appoint an approved insurer to be the supervising insurer in relation to the claim.
- (2) A supervising insurer appointed under subsection (1)—
 - (a) shall investigate the claim; and
 - (b) shall negotiate the terms of settlement of the claim, either by payment of a lump sum or by weekly payments, in accordance with the Compensation Act; and
 - (c) may exercise any right of the approved insurer arising from or relating to the compulsory insurance policy; and
 - (d) has power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her duties or functions under this section.
- (3) Subsection (2) does not authorise a supervising insurer to pay any amounts for the purpose of satisfying a claim or to recover any amounts due to an approved insurer against whom a claim is made under this Act.

31 Fee payable to supervising insurer

- (1) The manager shall pay to a supervising insurer out of the fund, in relation to each claim to which the supervising insurer's appointment relates—
 - (a) such amount by way of a fee; and
 - (b) such further amount by way of reimbursement of moneys expended by the supervising insurer in the performance of his or her duties or functions under this Act;as is agreed between the manager and the supervising insurer.
- (2) A supervising insurer is not entitled to be paid any amount in respect of the performance of his or her duties or functions under this Act other than the amounts referred to in subsection (1).

32 Report of supervising insurer

Where a supervising insurer completes the negotiation of the terms of settlement of a claim, he or she shall forward to the manager a report in writing setting out the terms of the settlement together with any information or documents in his or her possession relating to the claim and the terms of settlement.

33 Approval of terms of settlement by court

- (1) Where the terms of settlement of a claim negotiated by a supervising insurer provide for payment of a lump sum to the claimant, the manager shall apply to the court for approval of the terms of the settlement.
- (2) On application by the manager under subsection (1), the court may, if it is of the opinion that the terms of settlement are just, approve the terms of settlement to which the application relates.
- (3) Jurisdiction to hear and determine applications under this section is vested in the court.

34 Approval of terms of settlement by manager

Where the terms of settlement of a claim negotiated by a supervising insurer provide for the making of weekly payments to the claimant, the manager may, if he or she is of the opinion that the terms of the settlement are just, approve the terms of the settlement.

35 Payment of claims against approved insurer where terms of settlement are approved

- (1) Subject to this section, where the terms of settlement of a claim made against an approved insurer under section 26 (2) are approved by the court or by the manager, as the case requires, the manager shall—
 - (a) pay to the liquidator of the insurer out of the fund—
 - (i) such amount as is necessary to enable the liquidator to satisfy the claim in accordance with the approved terms of settlement; and
 - (ii) such further amount as is agreed between the manager and the liquidator for payment of the costs of the liquidator in satisfying the claim; and
 - (b) forward to the liquidator all documents in the possession of the manager relating to the claim.
- (2) On receipt of an amount paid by the manager under subsection (1) (a) (i), the liquidator shall pay the amount to the claimant in satisfaction of the claim in accordance with the approved terms of settlement.
- (3) Where an approved insurer against whom a claim is made under section 26 (2) is dissolved under the law of the Territory or of a State or another Territory before the manager makes a payment to the liquidator of the insurer under subsection (1), the manager shall, where the terms of settlement of the claim are approved by the court or the manager, as the case requires, pay to the claimant out of the

fund such amount as is necessary to satisfy the claim in accordance with the approved terms of settlement.

36 Payment of claims against fund where terms of settlement are approved

Where the terms of settlement of a claim made against the fund under section 26 (2) are approved by the court or by the manager, as the case requires, the manager shall pay to the claimant out of the fund such amount as is necessary to satisfy the claim in accordance with the approved terms of settlement.

37 Liquidators to account to manager

- (1) A liquidator who receives any amounts in pursuance of section 28 or 35, shall, within 14 days after the expiration of the period of 3 months from the date on which the first amount was so received and thereafter within 14 days after the expiration of each subsequent period of 3 months, forward to the manager a statement in writing setting out the amounts so received by the liquidator and all payments made by the liquidator of those amounts in pursuance of this Act during that period of 3 months.
- (2) A statement under subsection (1) shall be certified as correct by an auditor who is a registered company auditor within the meaning of the Corporations Act.

38 Effect of payment of claims

Where an amount is paid to a claimant under this Act in settlement of a claim made under this Act, the payment operates to discharge the liability of the fund.

Part 6 Miscellaneous

39 Power of liquidator of approved insurer

The liquidator of an approved insurer may exercise his or her powers under the Corporations Act, section 477 with respect to any claim, judgment, order or award arising out of or in relation to any compulsory insurance policy issued by the insurer as if—

- (a) the reference in that section to the approval of the Court, of the committee of inspection or of a resolution of the creditors were a reference to the approval of the manager; and
- (b) the words ‘subject to the provisions of section 556,’ were omitted from subsection (1) (b).

40 Payment into fund of moneys recovered by liquidator

(1) Where—

- (a) an approved insurer is, under a contract of reinsurance, insured against liability in respect of compulsory insurance policies issued by the insurer and such liability is incurred by the insurer; and
- (b) any part of the liability of the insurer is met by moneys paid out of the fund in pursuance of this Act; and
- (c) an amount in respect of that part of the liability of the insurer is received by the liquidator of the insurer from the reinsurer;

the amount so received from the reinsurer shall, after the deduction of any expenses of or incidental to getting in that amount, be paid by the liquidator to the manager, in priority to all payments in respect of the debts referred to in the Corporations Act, section 556, for payment into the fund.

- (2) Where the liquidator of an approved insurer recovers any amount due to the insurer as a consequence of the payment, with moneys

paid out of the fund, of any part of any claim, judgment, order or award arising out of or in relation to any compulsory insurance policy issued by the insurer, the amount so recovered shall, after the deduction of any expenses of or incidental to the recovering of that amount, be paid by the liquidator to the manager in priority to all payments in respect of debts referred to in the Corporations Act, section 556, for payment into the fund.

- (3) This section shall have effect notwithstanding any agreement to the contrary.

41 Rights of manager against approved insurer

Where—

- (a) an approved insurer is unable to provide to an employer the indemnity required to be provided by a compulsory insurance policy issued by the insurer; and
- (b) any part of the employer's liability is met by moneys paid out of the fund in pursuance of this Act; and
- (c) those moneys, or part of those moneys are not recovered by the manager under section 40;

the manager shall have the same rights against the insurer as the employer to the extent that those moneys, or part of those moneys are not so recovered.

42 Liquidator to notify manager of dissolution

Where the liquidator of an approved insurer applies to a court under the law of the Territory or of a State or another Territory for an order that the insurer be dissolved, the liquidator shall notify the manager in writing of the making of the application and shall serve on the manager a copy of any order made by the court on the application.

43 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Workmen's Compensation Supplementation Fund Ordinance 1980* No 28 (Cwlth).

Endnotes

3 Legislation history

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

It was later renamed as the *Workers' Compensation Supplementation Fund Act 1980*, by the *Workers' Compensation (Consequential Amendments) Act 1991* No 106 (see sch) and then as the *Workers Compensation Supplementation Fund Act 1980*, by the *Workers Compensation (Acts of Terrorism) Amendment Act 2002* No 22 (see sch).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Legislation before becoming Territory enactment

Workers' Compensation Supplementation Fund Act 1980 No 28

notified 11 September 1980 (Cwlth Gaz 1980 No S203)

commenced 11 September 1980

as amended by

Ordinances Revision (Companies Amendments) Ordinance 1982 No 38 sch 4

notified 30 June 1982 (Cwlth Gaz 1982 No S139)

commenced 1 July 1982 (s 2)

Ordinances Revision (Companies Amendments) Ordinance (No 2) 1982 No 93 s 5

notified 17 December 1982 (Cwlth Gaz 1982 No S263)

commenced 17 January 1983 (s 2 and Cwlth Gaz 1983 No S7)

Magistrates Court Ordinance 1985 No 67 sch pt 1

notified 19 December 1985 (Cwlth Gaz 1985 No S542)

commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

**Self-Government (Consequential Amendments) Ordinance 1989
No 38 sch 1**

notified 10 May 1989 (Cwlth Gaz 1989 No S160)
s 1, s 2 commenced 10 May 1989 (s 2 (1))
sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz No S164)

Legislation after becoming Territory enactment**Workers' Compensation (Consequential Amendments) Act 1991
No 106 sch**

notified 15 January 1992 (Gaz 1992 No S3)
s 1, s 2 commenced 15 January 1992 (s 2 (1))
sch commenced 22 January 1992 (s 2 (2) and see Gaz 1992 No S9)

**Workers' Compensation Supplementation Fund (Amendment) Act
1992 No 67**

notified 1 December 1992 (Gaz 1992 No S208)
commenced 1 December 1992

Statute Law Revision (Penalties) Act 1994 No 81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2 (1))
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994
No S293)

Financial Institutions (Removal of Discrimination) Act 1997 No 88 sch

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch commenced 31 December 1997 (s 2 (2) and Gaz 1997 No S442)

Appropriation (HIH) Act 2000-2001 No 33 pt 3

notified 21 June 2001 (Gaz 2001 No S33)
commenced 21 June 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 420

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)

Endnotes

4 Amendment history

pt 420 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Workers Compensation (Acts of Terrorism) Amendment Act 2002 No 22 pt 3, sch 1 pt 1.7

notified LR 28 June 2002
s 1, s 2 commenced 28 June 2002 (LA S75 (1))
pt 3, sch 1 pt 1.7 commenced 1 July 2002 (s 2)

Workers Compensation Supplementation Fund Amendment Act 2002 No 43

notified LR 2 December 2002
s 1, s 2 commenced 2 December 2002 (LA s 75(1))
remainder commenced 3 December 2002 (s 2)
am by Workers Compensation Amendment Act 2003 (No 2) A2003-49 s 34
notified LR 3 December 2003
s 1, s 2 commenced 3 December 2003 (LA s 75 (1))

Workers Compensation Amendment Act 2003 (No 2) A2003-49 s 34

notified LR 3 December 2003
s 1, s 2 commenced 3 December 2003 (LA s 75 (1))
s 34 commenced 5 April 2004 (s 2 and CN2004-7)

4 Amendment history

Title

am 1991 No 106 sch

Name of Act

s 1 am 1991 No 106 sch
sub 2002 No 22 amdt 1.38

Definitions for Act

s 2 def **approved insurer** ins 2002 No 22 amdt 1.39
def **Chairman** am 1992 No 67 sch
def **Commonwealth Companies Act** om No 1991 No 106 sch
def **Companies Act** ins 1982 No 38 sch 4
def **Companies Ordinance** om 1982 No 38 sch 4
def **Compensation Act** ins No 1991 No 106 sch
sub 2002 No 22 amdt 1.40
def **compulsory insurance policy** ins 2002 No 22 amdt 1.41
def **employer** am 1991 No 106 sch
sub 2002 No 22 amdt 1.42

def **employer's policy** am 1991 No 106 sch
om 2002 No 22 amdt 1.43
def **fund** am 1991 No 106 sch
sub 2002 No 22 amdt 1.44
def **insurer** sub 1991 No 106 sch
om 2002 No 22 amdt 1.43
def **liquidator** am 2002 No 22 amdt 1.63
def **manager** sub 1994 No 97 sch
def **member** am 1992 No 67 sch
def **supervising insurer** am 2002 No 22 amdt 1.63
def **the Court** am 1985 No 67 sch
def **worker** ins 1991 No 106 sch
sub 2002 No 22 amdt 1.45
def **workman** om 1991 No 106 sch
def **Workmen's Compensation Act** om 1991 No 106 sch

Workers Compensation Supplementation Fund

pt 2 hdg am 1991 No 106 sch
sub 2002 No 22 amdt 1.46

Establishment of fund

s 3 am 1991 No 106 sch; 1992 No 67 sch; 1997 No 88 sch; 2002
No 22 amdt 1.47, amdt 1.48

Audit

s 6 am 1992 No 67 sch

Payments out of fund

s 7 am 1992 No 67 s 3; 2001 No 33 s 7; 2002 No 22 s 6, s 7,
amdt 1.63; A2003-49 s 34
(2), (3) exp 1 October 2006 (s 7 (3))

Manager of fund

s 8 am 1992 No 67 sch
sub 1994 No 97 sch

Reimbursement of Territory in respect of manager's remuneration

s 8A ins 1992 No 67 s 4
am 1994 No 97 sch

Acting Manager

s 9 am 1992 No 67 sch
om 1994 No 97 sch

Evidence

s 10 sub 1994 No 97 sch

Removal of manager from office

s 11 am 1992 No 67 sch

Powers of manager

s 12 am 1992 No 67 sch; 2002 No 22 amdt 1.64

Endnotes

4 Amendment history

Insurers advisory committee

s 13 am 1992 No 67 sch

Members of committee

s 14 am 1992 No 67 sch

Chairperson

s 15 sub 1992 No 67 sch

Remuneration

s 16 am 1992 No 67 sch

Removal of member from office

s 17 am 1992 No 67 sch; 2002 No 22 amdt 1.64

Meetings

s 18 am 1992 No 67 sch

Leave of absence

s 19 am 1992 No 67 sch

Protection of manager and members of committee

s 21 am 1992 No 67 sch

Contributions to fund

pt 4 hdg sub 2001 No 33 s 8

Surcharge on compulsory insurance policies

div 4.1 hdg ins 2001 No 33 s 8
sub 2002 No 22 amdt 1.49

Employers to pay surcharge

s 22 am 2001 No 44 amdt 1.4392, amdt 1.4393; R4 LA (see 2001 No 44 amdt 1.4394); 2002 No 22 amdt 1.50-1.53, amdt 1.62, amdt 1.63; ss renum R5 LA (see 2002 No 22 amdt 1.54); 2002 No 43 s 4, s 5; ss renum R6 LA (see 2002 No 43 s 6)

Exempt employers to pay surcharge

s 23 am 1991 No 106 sch; 1992 No 67 sch; 2002 No 22 amdt 1.55, amdt 1.62
sub 2002 No 43 s 7

Payments of amounts by approved insurer

s 24 hdg am 2002 No 22 amdt 1.63
s 24 am 1992 No 67 sch; 1994 No 81 sch; 2002 No 22 amdt 1.56, amdt 1.63

Refunds

s 25 am 2002 No 22 amdt 1.62, amdt 1.63

Contributions by Territory

div 4.2 hdg ins 2001 No 33 s 9

Territory contributions to fund

s 25A ins 2001 No 33 s 9

Repayment of Territory contributions to fund

s 25B ins 2001 No 33 s 9

Claims against approved insurers and the fund

s 26 hdg am 2002 No 22 amdt 1.64

s 26 am 1991 No 106 sch; 2002 No 22 amdt 1.57, amdt 1.62, amdt 1.63

Liquidator to forward claims to manager

s 27 am 2002 No 22 amdt 1.58, amdt 1.63

Payment of claims against approved insurers relating to judgments etc

s 28 hdg am 2002 No 22 amdt 1.64

s 28 am 2002 No 22 amdt 1.63

Manager to appoint supervising insurer in certain cases

s 30 am 1991 No 106 sch; 2002 No 22 amdt 1.58, amdt 1.63

Fee payable to supervising insurer

s 31 am 1991 No 106 sch

Report of supervising insurer

s 32 am 1991 No 106 sch

Approval of terms of settlement by manager

s 34 am 1991 No 106 sch

Payment of claims against approved insurer where terms of settlement are approved

s 35 hdg am 2002 No 22 amdt 1.63

s 35 am 2002 No 22 amdt 1.63

Liquidators to account to manager

s 37 am 1982 No 38 sch 4; 1992 No 67 sch

Power of liquidator of approved insurer

s 39 hdg am 2002 No 22 amdt 1.63

s 39 am 1982 No 93 s 5; 1991 No 106 sch; 2002 No 22 amdt 1.58, amdt 1.63

Payment into fund of moneys recovered by liquidator

s 40 am 1982 No 38 sch 4; 1991 No 106 sch; 2002 No 22 amdt 1.59-1.61, amdt 1.63

Rights of manager against approved insurer

s 41 hdg am 2002 No 22 amdt 1.63

s 41 am 2002 No 22 amdt 1.62, amdt 1.63

Liquidator to notify manager of dissolution

s 42 am 2002 No 22 amdt 1.63

Endnotes

5 Earlier replications

Regulation-making power

s 43 am 1989 No 38 sch 1
 sub 2001 No 44 amdt 1.4395

5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	Act 1989 No 38	30 September 1991
2	Act 1992 No 67	31 July 1993
3	Act 1994 No 97	28 February 1995
4	Act 2001 No 44	18 September 2001
5	Act 2002 No 22	1 July 2002
6	Act 2002 No 43	3 December 2002
6 (RI)	A2002-43 †	11 June 2003

† Reissue includes more comprehensive endnotes

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