

1999  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Urban Services)

## WorkCover Authority Bill 1999

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1999  
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(As presented)

(Minister for Urban Services)

**WorkCover Authority Bill 1999**

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**A BILL**

FOR

**An Act to establish an independent statutory body to  
administer legislation about occupational health and safety,  
workers compensation and other matters, and for other  
purposes**

The Legislative Assembly for the Australian Capital Territory enacts  
as follows:

**PART 1—PRELIMINARY**

**1 Name of Act**

5 This Act is the *WorkCover Authority Act 1999*.

**2 Commencement**

This Act commences on the day it is notified in the Gazette.

### 3 Dictionary

(1) The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references to certain words and expressions defined elsewhere in this Act.

5 (2) The dictionary is part of this Act.

(3) A definition in the dictionary of a word or expression applies to each use of the word or expression in the Act unless the contrary intention appears.

### 4 What is the workcover legislation?

10 (1) The *workcover legislation* consists of the following Acts or subordinate laws (or provisions) and all subordinate laws made under those Acts (or provisions):

(a) *Dangerous Goods Act 1984*;

(b) *Fuels Control Act 1979*;

15 (c) *Machinery Act 1949*;

(d) *Occupational Health and Safety Act 1989*;

(e) *Road Transport Reform (Dangerous Goods) Act 1995 (Cwlth)*;

(f) *Scaffolding and Lifts Act 1957*;

(g) *Workers' Compensation Act 1951*;

20 (h) *Workers' Compensation Supplementation Fund Act 1980*;

(i) any other Act or subordinate law, or provision of an Act or subordinate law, prescribed under the regulations.

(2) Regulations for paragraph (1) (i) may amend the Act or subordinate law concerned to make any changes necessary because of the prescription of the Act, subordinate law or provision as workcover legislation.

25 (3) Any amendments made by regulations for subsection (2) expire 1 year after they are made, unless confirmed by an Act before the end of that period.

## PART 2—WORKCOVER AUTHORITY

### *Division 2.1—Establishment, functions and powers*

#### 5 Establishment

(1) This Act establishes the WorkCover Authority (*the authority*).

5 (2) The authority—

- (a) is a body corporate; and
- (b) must have a common seal.

#### 6 Functions

The functions of the authority are as follows:

- 10 (a) to administer and enforce the workcover legislation for the Territory;
- (b) to collect payments under the workcover legislation for the Territory;
- 15 (c) to educate and advise employers, employees and the public about the workcover legislation;
- (d) to provide database services about the workcover legislation for employers, employees and the public;
- (e) to advise the Minister about the workcover legislation and its administration and enforcement (including any suggested amendments or repeals);
- 20 (f) to perform any other functions directed in writing by the Minister (under section 7), or conferred on the authority under this Act or another law of the Territory;
- 25 (g) to do anything else necessary or convenient in connection with the performance of its functions.

#### 7 Ministerial directions

(1) The Minister may give written directions to the authority about the performance of its functions, either generally or in relation to a particular matter.

30 (2) The authority must give effect to a Ministerial direction.

(3) The Minister must cause a copy of a Ministerial direction to be laid before the Legislative Assembly within 6 sitting days after it is given to the authority.

5 (4) The Territory must pay to the authority the reasonable costs of complying with a direction.

(5) The amount payable is an amount agreed between the authority and the Minister or, failing agreement, determined by the Chief Minister.

## 8 Companies, partnerships and joint ventures

10 (1) The authority may not, except in accordance with the written approval of the Minister—

- (a) form, or participate in the formation of, a company; or
- (b) subscribe for, or purchase, company shares or securities; or
- (c) enter into a partnership; or
- (d) participate in a joint venture.

15 (2) The Minister's approval—

- (a) must be given particularly, not generally; and
- (b) may be expressed to be subject to conditions mentioned in the approval.

20 (3) If the Minister approves the authority entering into a partnership or participating in a joint venture, the Minister must—

- (a) prepare a statement setting out particulars of, and the reasons for, the partnership or joint venture; and
  - (b) cause a copy of the statement to be laid before the Legislative Assembly with the next report given to him or her under section 30 (Quarterly reports).
- 25

## Division 2.2—Membership

### 9 Who are the members of the authority?

(1) The authority consists of 7 *members*, as follows:

- (a) 6 *directors* appointed by the Minister by instrument;
- 30 (b) the general manager.

- (2) The performance of the functions of the authority is not affected by reason only of there being a vacancy or vacancies in its membership.

#### 10 Appointments

- 5 (1) The Minister may only appoint as director a person with managerial, commercial or other qualifications or experience the Minister considers necessary to enable the authority to perform its functions.
- (2) The Minister may not appoint as director a member of the Insurers Advisory Committee.
- 10 (3) In making a decision about the appointment of a director, the Minister must consider any recommendations of the Occupational Health and Safety Council and the Insurers Advisory Committee.
- (4) Terms of appointment for the directors are set out in the Schedule (Part 1).

#### 11 Chairperson and deputy chairperson

- 15 (1) The Minister must, by instrument, appoint a member to be *chairperson* of the authority.
- (2) The members of the authority must elect a *deputy chairperson* (other than the chairperson) from among their number.

### *Division 2.3—Procedure*

#### 20 12 Meeting procedure

The procedure for meetings of the authority is set out in the Schedule (Part 2).

## PART 3—GENERAL MANAGER, STAFF AND CONSULTANTS

### *Division 3.1—General manager*

#### 13 Office

(1) This Act establishes the office of *general manager* of the authority.

5 (2) The general manager is the person performing the duties of the general manager under a contract of engagement (under section 15).

(3) The general manager is taken to be an employee (in the public service) within the meaning of the *Public Sector Management Act 1994*,

#### 14 Functions

10 The general manager may perform any function of the authority on the authority's behalf, subject to the general direction of the authority.

#### 15 Engagement under contract

(1) A person may be engaged by a *contract of engagement* to perform the duties of the general manager for a period of up to 5 years.

15 (2) The parties to the contract of engagement are the Territory and the general manager.

(3) Only a person recommended by the authority, and approved by the Minister, may be engaged as general manager.

20 (4) The current general manager, or a former general manager, may be re-engaged for a further term.

#### 16 Contract requirements

(1) The contract of engagement must—

(a) be in writing; and

(b) be signed by or on behalf of each party; and

25 (c) specify the day on which the engagement is to commence; and

(d) specify a period of engagement (no longer than 5 years).

(2) The employment of the general manager is governed by the contract of engagement, subject to this Act.

30 *Note* However, the general manager's salary and other remuneration is determined under the *Remuneration Tribunal Act 1995*—see s 17 of this Act.



(3) The contract of engagement may be varied at any time by an agreement in writing between the Minister and the general manager, but may not be varied to reduce or extend the period of office of the general manager.

5 (4) The Minister must—

- (a) consult with the authority about any proposed variation to the contract of engagement, and consider any advice given by the authority as a result; and
- 10 (b) consider any recommendation from the authority for the variation of the contract of engagement.

(5) The Minister must cause the contract of engagement, or any agreement to vary the contract, to be laid before the Legislative Assembly within 6 sitting days after the contract or variation agreement is signed.

#### 17 Remuneration

15 (1) The general manager may not be paid otherwise than under this section for the performance of the functions of office.

(2) The general manager is entitled to such remuneration, allowances and other entitlements—

- 20 (a) as are determined by the Remuneration Tribunal for the general manager; or
- (b) if there is no such determination—as are determined by the Chief Minister for the general manager by an interim determination under the *Remuneration Tribunal Act 1995*.

#### 18 Early termination of employment

25 (1) A contract of engagement may provide for the termination of the general manager's employment (*early termination*) before the expiry of the period of appointment.

(2) Early termination of the general manager's employment (except by resignation) may be effected under the contract of engagement only if—

- 30 (a) there is a ground for early termination under the contract; and
- (b) the authority gives the Minister a recommendation for early termination; and
- (c) the Minister approves the recommendation.

35 (3) The grounds for early termination in the contract of engagement may not include—

- (a) the ground that the general manager is incompatible with another person; or
- (b) any ground to the same effect.

5 (4) If the general manager's employment is terminated early, the Minister must cause a notice of the termination to be laid before the Legislative Assembly within 3 sitting days after notice of termination is given to the general manager.

## 19 Early termination (invalidity)

(1) If the general manager—

- 10 (a) is an eligible employee for the purposes of the *Superannuation Act 1976* (Cwlth); and
- (b) has not reached his or her maximum retiring age within the meaning of that Act;

15 his or her employment may be terminated on the ground of invalidity (within the meaning of Part IVA of that Act) only if the Commonwealth Superannuation Board of Trustees No. 2 has given a certificate under section 54C of that Act.

(2) If the general manager—

- 20 (a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990* (Cwlth); and
- (b) is under 60 years of age;

25 his or her employment may be terminated on the ground of invalidity (within the meaning of that Act) only if the Commonwealth Superannuation Board of Trustees No. 1 has given a certificate under section 13 of that Act.

## 20 Acting general manager

(1) The Minister may, by instrument, appoint a person to act as general manager—

- 30 (a) during a vacancy in the office of the general manager, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the general manager is for any reason unable to perform the functions of the office.

35 (2) Only a person recommended by the authority, and approved by the Minister, may be appointed to act as general manager.

(3) A person appointed to act as general manager during a vacancy in the office of a director may not so act continuously for more than 12 months.

5 (4) Anything done by or in relation to a person purporting to act pursuant to an appointment under subclause (1) is not invalid on the ground that—

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

## **21 Delegation**

10 The general manager may, by instrument, delegate any of his or her powers under the workcover legislation to any person, or to any person in a class specified in the instrument.

### ***Division 3.2—Staff and consultants***

## **22 Staff**

15 The staff assisting the general manager must be employed under the *Public Sector Management Act 1994*.

## **23 Consultants**

(1) The authority may engage consultants.

20 (2) Subsection (1) does not confer on the authority a power to enter into a contract of employment.

## PART 4—MANAGEMENT

### 24 Management focus

The functions of the authority must be discharged—

- (a) in accordance with sound business practice; and
- 5 (b) so as to give effect to the authority's business plan.

### 25 What is the authority's business plan?

The *business plan* of the authority for a financial year is a plan developed under this Part containing the following:

- 10 (a) the statement of intent provided to the Treasurer under section 58 of the Financial Management Act for that financial year;
- (b) a description of the main undertakings of the authority for that financial year and each of the next 2 financial years;
- (c) a description of the business and corporate strategies of the authority for that financial year and each of the next 2 financial  
15 years;
- (d) any other matter that the Minister, in writing, requires the authority to include.

### 26 Development of business plans

- 20 (1) The authority must develop a business plan for each financial year within 2 months after the start of that year, in consultation with the Minister.
- (2) The authority must, as far as practicable within 1 month after the start of each financial year, submit to the Minister a draft business plan for that year.
- 25 (3) The Minister must, in writing, as soon as practicable after receipt of the draft—
  - (a) give the authority recommendations for changes to the draft; or
  - (b) advise the authority that the draft is acceptable.
- 30 (4) When the Minister advises the authority that the draft is acceptable, it takes effect as the business plan of the authority for the current financial year.

(5) As soon as practicable after receipt of any recommendations for change from the Minister, the authority must—

- (a) consider the recommendations; and
- (b) consult with the Minister in order to reach agreement (if practicable); and
- (c) forward to the Minister a revised draft which, as far as practicable, gives effect to the Minister's recommendations, or to any agreement reached during consultation.

(6) When the authority forwards to the Minister a revised draft business plan, it takes effect as the business plan of the authority for the current financial year.

(7) The Minister must, within 6 sitting days after a business plan comes into effect, cause a copy of the plan to be laid before the Legislative Assembly.

**27 First business plan**

(1) Within 3 months after the date of commencement of this Act, the authority must develop a business plan for the remainder of the financial year commencing on 1 July 1999.

(2) The authority must, as far as practicable within 1 month after the date of commencement of this Act, submit to the Minister a draft business plan for the remainder of the financial year commencing on 1 July 1999.

(3) The Minister must, in writing, as soon as practicable after receipt of the draft—

- (a) give the authority recommendations for changes to the draft; or

- (b) advise the authority that the draft is acceptable.

(4) When the Minister advises the authority that the draft is acceptable, it takes effect as the first business plan of the authority for the remainder of the financial year commencing on 1 July 1999.

(5) As soon as practicable after receipt of any recommendations for change from the Minister, the authority must—

- (a) consider the recommendations; and
- (b) consult with the Minister in order to reach agreement (if practicable); and

- (c) forward to the Minister a revised draft which, as far as practicable, gives effect to the Minister's recommendations, or to any agreement reached during consultation.

5 (6) When the authority forwards to the Minister a revised draft business plan, it takes effect as the first business plan of the authority for the remainder of the financial year commencing on 1 July 1999.

(7) The Minister must, within 6 sitting days after the first business plan of the authority comes into effect, cause a copy of the plan to be laid before the Legislative Assembly.

10 (8) This section expires on 1 September 2000.

#### 28 Modification of business plans

(1) The authority may modify a business plan for a financial year at any time during that year, in consultation with the Minister.

15 (2) The authority may submit to the Minister a draft modified business plan.

(3) The Minister must, in writing, as soon as practicable after receipt of the draft—

- (a) give the authority recommendations for changes to the draft; or
- (b) advise the authority that the draft is acceptable.

20 (4) When the Minister advises the authority that the draft is acceptable, the business plan of the authority for the remainder of the current financial year is modified accordingly.

(5) As soon as practicable after receipt of any recommendations for change from the Minister, the authority must—

- 25 (a) consider the recommendations; and
- (b) consult with the Minister in order to reach agreement (if practicable); and
- (c) forward to the Minister a revised draft which, as far as practicable, gives effect to the Minister's recommendations, or to any agreement reached during consultation.
- 30

(6) When the authority forwards to the Minister a revised, modified draft business plan, the business plan of the authority for the remainder of the current year is modified accordingly.

(7) If a business plan is modified, the Minister must cause a copy of the modified plan to be laid before the Legislative Assembly with the next quarterly report of the authority.

**29 Application of Part 8 of Financial Management Act**

5 (1) Funds may not be invested, or moneys borrowed, for the purposes of the authority except in accordance with Part 8 of the Financial Management Act.

(2) Subsection (1) does not limit the application of Part 8 of the Financial Management Act to the authority.

## PART 5—REPORTS

### 30 Quarterly reports

5 (1) The authority must, as soon as practicable after the end of each quarter, prepare and give to the Minister a report on the operations of this Act and of the authority during that quarter.

(2) The Minister must cause a copy of a quarterly report to be laid before the Legislative Assembly within 6 sitting days after he or she receives the report.

### 31 Annual report

10 The report prepared by the authority for section 8 of the *Annual Reports (Government Agencies) Act 1995* must include, in relation to the reporting period—

- (a) a copy of any direction given by the Minister under section 7 during the period; and
- 15 (b) a statement by the authority about action taken during the period to give effect to any such direction.



**PART 6—MISCELLANEOUS**

**32 Regulations**

The Executive may make regulations for this Act.

**SCHEDULE**

(See s 10 (4) and s 12))

**DIRECTORS AND MEETING PROCEDURE**

**PART 1—DIRECTORS**

**1 Terms of office**

- 5 (1) A director holds office, subject to this Act—
- (a) on a part-time basis; and
  - (b) for the period specified in the instrument of appointment; and
  - (c) on such terms (if any) for matters not provided for by this Act as are specified in the instrument of appointment.
- 10 (2) The period of appointment may not be more than 3 years.
- (3) A current or former director is eligible for re-appointment (subject to this Act).

15 *Note* This clause, and Part 1 of the schedule generally, do not apply to the general manager. However, the general manager, like the directors, is a member of the authority because he or she holds the office of general manager—see s 9. The terms of office of the general manager are provided under Part 3, Division 3.1.

**2 Remuneration**

A director is entitled to such remuneration, allowances and other entitlements—

- 20 (a) as are determined by the Remuneration Tribunal for a director; or
- (b) if there is no such determination—as are determined by the Chief Minister for a director by an interim determination under the *Remuneration Tribunal Act 1995*.

**3 Resignation**

- 25 A director may resign from office by writing signed by the director and given to the Minister.

**4 Termination of appointment**

- (1) The Minister may terminate the appointment of a director because of the director's misbehaviour or physical or mental incapacity.

**SCHEDULE—continued**

(2) The Minister must terminate the appointment of a director if the director—

- 5 (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
- (b) is absent, except on leave, for 3 consecutive meetings of the authority; or
- (c) contravenes clause 10 of this Schedule (Disclosure of interest), without reasonable excuse; or
- 10 (d) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer.

**5 Acting appointments**

(1) The Minister may, by instrument, appoint an eligible person to act as director—

- 15 (a) during a vacancy in the office of the director, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the director is for any reason unable to perform the functions of the office.

20 (2) A person appointed to act as director during a vacancy in the office of a director may not so act continuously for more than 12 months.

(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subclause (1) is not invalid on the ground that—

- 25 (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

(4) In this section—

30 **eligible person**, in relation to a director, means a person who would, in the opinion of the Minister, be eligible under subsection 10 (1) and (2) for appointment to the office of the director if that office were to become permanently vacant.

**SCHEDULE—continued**

**PART 2—MEETING PROCEDURE**

**6 Convening meetings**

(1) The chairperson, or if the chairperson is unable to do so, the deputy chairperson, must convene such meetings of the authority—

- 5 (a) as he or she considers necessary for the efficient performance of authority's functions; or
- (b) as the Minister requires by written notice given to the chairperson or the deputy chairperson.

10 (2) At least 1 meeting must be convened in each quarter of a financial year.

**7 Meetings by telephone or television (or similar devices)**

The authority may convene or hold a meeting by means of communication in any of the following forms (or any combination of the following forms):

- 15 (a) telephone;
- (b) television;
- (c) any other device that permits instantaneous audio communication with or without visual communication.

**8 Quorum**

20 At a meeting of the authority, 4 members constitute a quorum.

**9 Meeting procedure**

(1) The chairperson must preside at all meetings of the authority at which he or she is present.

25 (2) If the chairperson is not present at a meeting the deputy chairperson must preside.

(3) If the chairperson and the deputy chairperson are both absent from a meeting, the members present must elect 1 of their number to preside.

(4) The presiding member may give directions about the procedure to be followed at the meeting.

**SCHEDULE—continued**

(5) Questions arising at a meeting must be decided by a majority of the votes of the members present and voting.

(6) The presiding member has a deliberative vote and, in the event of an equality of votes, a casting vote.

5    **10    Disclosure of interest**

(1) A member who has a direct or indirect pecuniary or personal interest in a matter submitted for consideration by the authority must disclose the nature of the interest to the authority as soon as possible after the relevant facts have come to the member's knowledge.

10    (2) The presiding member at a meeting at which an interest is disclosed must cause that disclosure to be recorded in the minutes of the meeting.

(3) A member disclosing an interest must not, unless the authority determines otherwise—

15            (a) be present during any deliberation of the authority in relation to the relevant matter; or

              (b) take part in any decision of the authority in relation to that matter.

(4) A member disclosing an interest must not—

              (a) be present during any deliberation of the authority in relation to a determination mentioned in subsection (3); or

20            (b) take part in any decision of the authority in relation to such a determination.

25    (5) The presiding member at the relevant meeting must give a written report to the Minister about any determination of the authority under subsection (3) specifying the nature of the interest disclosed and the reasons for the determination.

**11    Discussion of general manager's employment**

The general manager must not—

30            (a) be present during any deliberation of the authority in relation to the engagement, the contract of engagement, any variation to the contract of engagement or the early termination of the employment of the general manager; or

              (b) take part in any decision of the authority in relation to such a deliberation.

**SCHEDULE—continued**

**12 Minutes**

The authority must keep minutes of its proceedings.

DICTIONARY

(Sec s 3)

*authority*—see section 5.

*business plan* means the business plan of the authority under section 25, as in effect from time to time.

5 *chairperson*—see subsection 11 (1).

*contract of engagement*, of the general manager—see section 15.

*deputy chairperson*—see subsection 11 (2).

*director*—see paragraph 9 (1) (a).

10 *early termination*, of the employment of the general manager—see section 18.

*Financial Management Act* means the *Financial Management Act 1996*.

*general manager*—see section 13.

15 *Insurers Advisory Committee* means the committee of that name under the *Workers' Compensation Supplementation Fund Act 1980*.

*member*—see subsection 9 (1).

*Occupational Health and Safety Council* means the council of that name under the *Occupational Health and Safety Act 1989*.

20 *quarter* means the period of 3 months commencing on 1 July, 1 October, 1 January or 1 April in a financial year.

*workcover legislation*—see section 4.

