



Australian Capital Territory

# **Workers' Compensation Supplementation Fund Act 1980 No 28**

## **Republication No 4**

Republication date: 18 September 2001

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Workers' Compensation Supplementation Fund Act 1980* as in force on 18 September 2001. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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](http://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 includes 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—

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

Amendments incorporated to  
12 September 2001



Australian Capital Territory

# Workers' Compensation Supplementation Fund Act 1980

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Amendments incorporated to  
12 September 2001



Australian Capital Territory

# **Workers' Compensation Supplementation Fund Act 1980**

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

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## Part 1 Preliminary

### 1 Short title

This Act may be cited as 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:

*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*.

*employer*—see the Compensation Act.

*employer's policy* means a policy of insurance or indemnity obtained by an employer in pursuance of the Compensation Act, section 17B, but does not include a policy of insurance or indemnity of the kind commonly known as a householder's policy containing a provision relating to the liability of the employer under, or independently of, that Act for any injury to, or the death of, a worker employed by the employer.

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

*insurer*—see the Compensation Act.

*liquidator*, in relation to an 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 insurer in relation to that claim.

***the court*** means the Magistrates Court.

***worker***—see the Compensation Act.

## Part 2                      Workers' Compensation Supplementation Fund

### 3        Establishment of fund

- (1) A fund is hereby established to be known as the Workers' Compensation Supplementation Fund of the Australian Capital Territory.
- (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) The manager shall pay all moneys constituting the fund into 1 or more accounts maintained by the manager at a bank, credit union or building society in the Territory.
- (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**

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 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

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- (e) the amount of any costs and expenses incurred in, or in connection with, the administration of the fund.

## 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 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 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 employer's policies**

#### **22 Employers to pay surcharge**

- (1) An employer who obtains from an insurer an employer's policy on or after the commencement of this Act shall pay to the insurer the prescribed surcharge in relation to that policy.
- (2) An employer who has obtained from an insurer an employer's policy before the commencement of this Act, being an insurer's policy that is in force at the commencement of this Act, shall pay to the insurer an amount that is a proportion, calculated in accordance with subsection (5), of the prescribed surcharge in relation to that policy.
- (3) For the purposes of this section, the prescribed surcharge in relation to an employer's policy is an amount equal to 10% of the amount of the premium payable in respect of the policy—
  - (a) in the case of an employer's policy referred to in subsection (1)—at the rate in force on the day specified in the policy as the day on which insurance cover begins under the policy; or
  - (b) in the case of an employer's policy referred to in subsection (2)—at the rate in force at the commencement of this Act,or such lesser percentage of the secondmentioned amount as may be determined, in writing, by the Minister.

- (4) A determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (5) The proportion of the prescribed surcharge payable by an employer to whom subsection (2) applies shall be calculated in accordance with the following formula:

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

*A* means the number of days in the period commencing on the date of commencement of this Act and ending on the day on which the policy expires.

- (6) The prescribed surcharge payable by an employer to whom subsection (1) applies shall be paid—
- (a) where the employer pays any moneys to an insurer by way of premium in respect of an employer's policy before the day on which insurance cover begins under the policy or the policy is renewable—on the day on which those moneys are paid; or
  - (b) where the employer pays any additional moneys to an insurer by way of premium, being a payment made as the result of an adjustment of premium—on the day on which those moneys are paid; or
  - (c) in any other case—on the day on which insurance cover begins under the policy or the policy is renewable.
- (7) The amount payable by an employer to whom subsection (2) applies shall be paid not later than the day on which premiums in respect of the employer's policy are adjusted by the insurer.

### **23 Exempt employers to pay surcharge**

- (1) An employer who is granted an exemption under the Compensation Act, section 17C, whether before or after the commencement of this Act, shall pay to the manager within 1 month after the commencement of this Act, or within 1 month after the granting of the exemption, whichever is the later, and thereafter once in each

succeeding period of 12 months, an amount assessed by the manager on the advice of the committee.

- (2) The amount assessed by the manager under subsection (1) shall be an amount equal to the amount of the surcharge that would have been payable by the employer under this Act in relation to an employer's policy but for the exemption granted to the employer under the Compensation Act, section 17C.

## **24 Payments of amounts by insurer**

- (1) An 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 employer's 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 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 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 employer's 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 insurer a refund of any amount paid by way of premium in respect of an employer's 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 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 insurers and the fund

- (1) Where, before or after the commencement of this Act—
- (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 an employer's policy; and
  - (c) the 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) Where, before or after the commencement of this Act—
- (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 an employer's policy; and

- (c) the 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 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 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 employer's policy as are in the possession of the liquidator.

**28 Payment of claims against insurers relating to judgments etc**

- (1) Subject to this section, where the manager receives from the liquidator of an 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 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 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 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 insurer arising from or relating to the employer's 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 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 insurer where terms of settlement are approved**

- (1) Subject to this section, where the terms of settlement of a claim made against an 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 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 insurer

The liquidator of an 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 employer's 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 insurer is, under a contract of reinsurance, insured against liability in respect of employer's 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 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 employer's 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 whether made before or after the commencement of this Act.

#### **41 Rights of manager against insurer**

Where—

- (a) an insurer is unable to provide to an employer the indemnity required to be provided by an employer's 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 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 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 endnotes.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

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

## Endnotes

3 Legislation history

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### 3 Legislation history

The *Workers' Compensation Supplementation Fund Act 1980* was originally the *Workmen's Compensation Supplementation Fund Ordinance 1980*. It became an ACT Act on self-government (11 May 1989). It was renamed by Act 1991 No 106 (see sch).

#### Legislation before self-government

Legislation	Year and number	Gazette notification	Commencement
Workers' Compensation Supplementation Fund Act 1980	1980 No 28	11 Sept 1980	11 Sept 1980
Ordinances Revision (Companies Amendments) Ordinance 1982	1982 No 38	30 June 1982	1 July 1982
Ordinances Revision (Companies Amendments) Ordinance (No. 2) 1982	1982 No 93	17 Dec 1982	17 Jan 1983 (see Gaz 1983 No S7)
Magistrates Court Ordinance 1985	1985 No 67	19 Dec 1985	1 Feb 1986 (see Gaz 1986 No G3)
Self-Government (Consequential Amendments) Ordinance 1989	1989 No 38	10 May 1989	ss 1 and 2: 10 May 1989 remainder: 11 May 1989 (see s 2 (2) and Gaz 1989 No S164)

#### Legislation after self-government

Workers' Compensation (Consequential Amendments) Act 1991	1991 No 106	15 Jan 1992	ss 1 and 2: 15 Jan 1992 remainder: 22 Jan 1992 (see s 2 (2) and Gaz 1992 No S9)
Workers' Compensation Supplementation Fund (Amendment) Act 1992	1992 No 67	1 Dec 1992	1 Dec 1992
Statute Law Revision (Penalties) Act 1994	1994 No 81	29 Nov 1994	ss 1 and 2: 29 Nov 1994 remainder: 29 Nov 1994 (see Gaz 1994 No S269)

Legislation	Year and number	Gazette notification	Commencement
Statutory Offices (Miscellaneous Provisions) Act 1994	1994 No 97	15 Dec 1994	ss 1 and 2: 15 Dec 1994 remainder: 15 Dec 1994 (see Gaz 1994 No S293)
Financial Institutions (Removal of Discrimination) Act 1997	1997 No 88	1 Dec 1997	ss 1 and 2: 1 Dec 1997 remainder: 31 Dec 1997 (see Gaz 1997 No S442)
Appropriation (HIH) Act 2000-2001	2001 No 33	21 June 2001	21 June 2001
Legislation (Consequential Amendments) Act 2001	2001 No 44 pt 418	26 July 2001	ss 1 and 2: 26 July 2001 (IA s 10B) pt 418: 12 Sept 2001 (s 2)

## 4 Amendment history

### Title

am 1991 No 106 sch

### Short title

s 1 am 1991 No 106 sch

### Definitions for Act

s 2

- 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
- def **employer** am 1991 No 106 sch
- def **employer's policy** am 1991 No 106 sch
- def **Fund** am 1991 No 106 sch
- def **insurer** sub 1991 No 106 sch
- def **manager** sub 1994 No 97 sch
- def **member** am 1992 No 67 sch
- def **the Court** am 1985 No 67 sch
- def **worker** ins 1991 No 106 sch
- 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

## Endnotes

4 Amendment history

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### **Establishment of fund**

s 3 am 1991 No 106 sch; 1992 No 67 sch; 1997 No 88 sch

### **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

### **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

### **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

### **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 employer's policies**

div 4.1 hdg ins 2001 No 33 s 8

**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)

**Exempt employers to pay surcharge**

s 23 am 1991 No 106 sch; 1992 No 67 sch

**Payments of amounts by insurer**

s 24 am 1992 No 67 sch; 1994 No 81 sch

**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 insurers and the fund**

s 26 am 1991 No 106 sch

**Manager to appoint supervising insurer in certain cases**

s 30 am 1991 No 106 sch

**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

**Liquidators to account to manager**

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

**Power of liquidator of insurer**

s 39 am 1982 No 93 s 5; 1991 No 106 sch

**Payment into fund of moneys recovered by liquidator**

s 40 am 1982 No 38 sch 4; 1991 No 106 sch

**Regulation-making power**s 43 am 1989 No 38 sch 1  
sub 2001 No 44 amdt 1.4395

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the order as published by the Government Publisher.

<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
1	Act 1989 No 38	30 September 1991
2	Act 1992 No 67	31 July 1993
3	Act 1994 No 97	28 February 1995

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