



Australian Capital Territory

# Workers Compensation Amendment Act 2016

A2016-8

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An Act to amend the *Workers Compensation Act 1951*

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

**1 Name of Act**

This Act is the *Workers Compensation Amendment Act 2016*.

**2 Commencement**

- (1) Section 3 and section 5 commence on the day after this Act's notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The remaining provisions commence 3 months after this Act's notification day.

**3 Legislation amended**

This Act amends the *Workers Compensation Act 1951*.

**4 New part 5.4A**

*insert*

**Part 5.4A Return-to-work coordinators**

**103A Definitions—pt 5.4A**

In this part:

*annual premium*, for an employer, means the amount paid by the employer for the employer's compulsory insurance policy for 1 year.

*return-to-work coordinator* means a return-to-work coordinator appointed under section 103C.

**103B Application—pt 5.4A**

This part applies to an employer that—

- (a) pays an annual premium of \$200 000 or more; or
- (b) is a self-insurer.

**103C Appointment**

- (1) An employer must appoint a return-to-work coordinator.
- (2) If a return-to-work coordinator's position becomes vacant, the employer must appoint another person to the position within 3 months after the position becomes vacant.
- (3) A person commits an offence if—
  - (a) the person is an employer; and
  - (b) the employer fails to comply with a requirement under subsections (1) or (2).

Maximum penalty: 50 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

**103D Functions**

A return-to-work coordinator has the following functions:

- (a) to assist injured workers to remain at work, or return to work as soon as practicable following an injury;
- (b) if the return-to-work coordinator's employer is not a self insurer—to assist the employer's insurer to prepare and implement the return to work plan or personal injury plan for an injured worker;
- (c) to identify suitable duties for injured workers;

- (d) to liaise with people involved in the provision of medical treatment or rehabilitation services to an injured worker in relation to the worker's return to work;
- (e) to monitor an injured worker's progress towards the worker's return to work;
- (f) as far as practicable, to take steps to prevent an aggravation, acceleration or recurrence of an injured worker's injury when the worker returns to work;
- (g) to promote injury management strategies.

*Note* The collection and disclosure of personal health information is subject to the [Health Records \(Privacy and Access\) Act 1997](#).

### **103E Employer's obligations**

- (1) An employer must—
  - (a) provide the facilities and assistance that are reasonably necessary to enable a return-to-work coordinator to exercise the coordinator's functions; and
  - (b) not appoint a person as a return-to-work coordinator unless the person—
    - (i) has completed training determined by the Minister as prerequisite training for a return-to-work coordinator for this Act; or
    - (ii) has experience of the kind determined by the Minister as prerequisite experience for a return-to-work coordinator for this Act; and
  - (c) comply with the Minister's guidelines about an employer's responsibilities in relation to return-to-work coordinators; and
  - (d) notify the Minister in writing about the contact details for each of the employer's return-to-work coordinators not later than 30 days after the day the coordinator is appointed.

(2) Each of the following is a notifiable instrument:

- (a) a determination under subsection (1) (b);
- (b) a guideline under subsection (1) (c).

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

(3) A person commits an offence if—

- (a) the person is an employer; and
- (b) the employer fails to comply with a requirement under subsection (1).

Maximum penalty: 50 penalty units.

(4) An offence against subsection (3) is a strict liability offence.

(5) It is a defence to a prosecution for an offence against this section, for a failure to comply with a requirement under subsection (1) (a), if the defendant proves that the defendant believed on reasonable grounds that the defendant provided the facilities and assistance that were reasonably necessary to enable a return-to-work coordinator to exercise the coordinator's functions.

### **103F Register of return-to-work coordinators**

(1) The work safety commissioner must maintain a register of return-to-work coordinators.

(2) The register must include the following information about a return-to-work coordinator:

- (a) name;
- (b) employer;
- (c) position held with employer;
- (d) workplace address;
- (e) workplace telephone number;

- (f) workplace email address.
- (3) The register may be kept in any form, including electronically, that the work safety commissioner decides.
- (4) The work safety commissioner must make information about an employer's return-to-work coordinator held in the register available to—
  - (a) an inspector; and
  - (b) an employee of the employer; and
  - (c) the employer's workers compensation insurer.

## **5 Sections 191 and 192**

*substitute*

### **191 Powers of entry**

- (1) An inspector may at any time enter premises that are, or that the inspector reasonably suspects are, a workplace.
- (2) An entry may be made under subsection (1) with, or without, the consent of the occupier of the premises.
- (3) If an inspector enters premises under subsection (1) that are not a workplace, the inspector must leave the place immediately.
- (4) An inspector may enter any premises if the entry is authorised by a search warrant.

**192 Notification of entry**

- (1) An inspector may enter a workplace or a suspected workplace under section 191 without prior notice to any person.
- (2) An inspector must, as soon as practicable after entry to the workplace or suspected workplace, take all reasonable steps to notify the following people of the entry and the purpose of the entry:
  - (a) the occupier of the premises;
  - (b) an employer who is on the premises.
- (3) However, an inspector is not required to notify any person if to do so would defeat the purpose for which the place was entered or cause unreasonable delay.

**192A General powers on entry**

- (1) An inspector who enters premises under section 191 may—
  - (a) require any person on the premises to produce for inspection any document or thing relating to the employment of workers by the employer using the premises; and
  - (b) make copies of, or take extracts from a document mentioned in this subsection; and
  - (c) require anyone on the premises to produce information relating to a document or thing mentioned in this subsection, or information relating generally to the employment of workers by the employer using the premises; and
  - (d) require information from—
    - (i) the occupier of the premises; or
    - (ii) an employer who is on the premises; or
    - (iii) a person whom the inspector believes on reasonable grounds is an employer and who is on the premises.

- (2) For subsection (1) (d), *information* means—
  - (a) the person's name and address; and
  - (b) the name under which the business carried on at the premises operates.
- (3) An inspector who enters premises in accordance with this section must, if asked by the occupier of the premises or the employer who is on the premises, show the identity card issued to the inspector under section 189.
- (4) If the inspector does not show the identity card to the occupier or employer when asked, the inspector must leave the premises immediately.
- (5) A person must not contravene a requirement under this section.  
Maximum penalty: 50 penalty units.
- (6) An offence against subsection (5) is a strict liability offence.

## **192B Premises used for residential purposes**

An inspector's powers to enter premises are not exercisable in relation to a part of premises that is used only for residential purposes except—

- (a) with the consent of the occupier of the premises; or
- (b) under a search warrant; or
- (c) for gaining access to a suspected workplace, but only—
  - (i) if the inspector reasonably believes that no reasonable alternative access is available; and
  - (ii) at a reasonable time taking into account the times at which the inspector believes work is being carried out at the place to which access is sought.



## 6 Dictionary, note 2

*insert*

- work safety commissioner

## 7 Dictionary, new definitions

*insert*

***annual premium***, for an employer, for part 5.4A (Return-to-work coordinators)—see section 103A.

***return-to-work coordinator***, for part 5.4A (Return-to-work coordinators)—see section 103A.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 19 November 2015.

**2 Notification**

Notified under the [Legislation Act](#) on 29 February 2016.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Workers Compensation Amendment Bill 2016, which originated in the Legislative Assembly as the Workers Compensation Amendment Bill 2015 and was passed by the Assembly on 16 February 2016.

Acting Clerk of the Legislative Assembly

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