

1996
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Business, Employment and Tourism)

**Workers' Compensation (Amendment) Bill
(No. 2) 1996**

**A BILL
FOR
An Act to amend the *Workers' Compensation Act
1951***

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

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Workers' Compensation (Amendment) Act (No. 2) 1996*.

Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

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Principal Act

3. In this Act, "Principal Act" means the *Workers' Compensation Act 1951*.¹

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**PART II—AMENDMENTS TO THE
WORKERS' COMPENSATION ACT 1951**

Interpretation

4. Section 6 of the Principal Act is amended—

(a) by inserting in subsection (1) the following definition:

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" 'worker of this Territory' means a worker who is a worker of this Territory within the meaning given by section 7A."; and

(b) by omitting subsections (8) and (10).

Insertion

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5. After section 7 of the Principal Act, the following sections are inserted:

Compensation limited to Territory workers

"7A. (1) An employer is liable to pay compensation only in respect of an injury suffered by a worker of this Territory.

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"(2) For the purposes of this Act, a worker is a worker of whichever Territory or State is—

(a) the Territory or State in which the worker usually carries out the work of the employment concerned;

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(b) if no Territory or State, or no single Territory or State, is identified by paragraph (a)—the Territory or State in which the worker's base for the purposes of that employment is located; or

(c) if no Territory or State, or no single Territory or State, is identified by paragraph (a) or (b)—the Territory or State in which the worker was hired for or otherwise taken into that employment.

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"(3) If a worker usually carries out the work of his or her employment in a particular Territory or State ('the home Territory or State'), but pursuant to a defined temporary arrangement carries out that work elsewhere (whether within or outside Australia), the worker is nevertheless to be regarded as a worker of the home Territory or State while carrying out the work elsewhere.

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"(4) A worker who is not otherwise a worker of this Territory is to be taken to be a worker of this Territory if the worker—

- (a) receives an injury in this Territory;
- (b) is not a worker of any other Territory or any State; and
- (c) is not entitled to compensation in respect of the injury under the enacted law of a place outside Australia.

5 “(5) In subsection (3)—

‘defined temporary arrangement’, in relation to the employment of a worker, means an arrangement that is part of that employment for the worker to carry out the work of the employment for a period that may reasonably be thought likely to be of less than 6 months’ duration.

Injury outside Australia

“7B. Subject to this Act, compensation is payable in respect of an injury to a worker of this Territory suffered while the worker was outside Australia.”.

15 Substitution

6. Section 23 of the Principal Act is repealed and the following section substituted:

Liability arising independently of this Act

20 “23. (1) Compensation is not payable under this Act in respect of an injury to a worker to the extent to which—

- (a) workers’ compensation for that injury has been paid under the law of a place outside the Territory; or
- (b) a judgment or agreement for damages has been obtained in respect of the injury from the worker’s employer independently of this Act.

25 “(2) If a worker or a dependant of a worker obtains compensation under this Act in respect of an injury to the worker, and, subsequently in respect of the injury, the person to whom that compensation was paid obtains workers’ compensation under a law of a place outside the Territory, or obtains from the worker’s employer a judgment or agreement for damages independently of this Act, the employer is entitled to recover from that person an amount equal to the least of the following amounts:

- (a) the amount of the compensation obtained under this Act;
- (b) if the person has obtained workers’ compensation under a law of a place outside the Territory in respect of the injury—the amount of the compensation, unless paragraph (d) applies;

- (c) if the person has obtained a judgment or agreement for damages independently of this Act in respect of the injury—the amount of the judgment or agreement, unless paragraph (d) applies;
- 5 (d) if the person has obtained both workers' compensation under a law of a place outside the Territory, and a judgment or agreement for damages independently of this Act, in respect of the injury—the net amount to which the person is entitled under that law in respect of the compensation and the damages.”.

Consequential amendments

- 10 7. (1) The Principal Act is amended as set out in Schedule 1.
- (2) Schedule 3 to the Principal Act is amended as set out in Schedule 2 to this Act.

PART III—TRANSITIONAL

Interpretation

- 15 8. In this Part—
- “commencement day” means the day fixed by the Minister under subsection 2 (2).

Injuries received before the commencement day

- 20 9. Where the death or incapacity of a worker, or a loss or condition suffered by the worker, results from an injury received, or deemed to have been received by virtue of section 9 of the Principal Act, before the commencement day, the Principal Act as in force immediately before the commencement day continues to apply in relation to the injury.

Prescribed insurance policies

- 25 10. On and after the commencement day, an insurance policy in the form set out in Schedule 3 to the Principal Act, being a policy in force immediately before that day, is to have effect as if it were in the form set out in that Schedule as amended in accordance with Schedule 2 to this Act.

SCHEDULE 1

Subsection 7 (1)

CONSEQUENTIAL AMENDMENTS

Subsection 16 (1)—

After “worker” insert “of this Territory”.

5 **Paragraph 18 (1) (a)—**

Omit “employer’s employees”, substitute “workers of this Territory employed by the employer”.

Subparagraph 18 (1) (b) (i)—

After “workers” insert “of this Territory”.

10 **Paragraphs 18C (2) (a) and (3) (a)—**

After “worker” insert “of this Territory”.

Subsection 21 (1)—

(a) Omit “person” (first occurring), substitute “worker of this Territory”.

15 (b) Omit “that person” (first occurring), substitute “the worker”.

Paragraphs 21 (1) (a) and (b)—

Omit “that person”, substitute “the worker”.

Subsections 21 (3) and (5)—

After “worker” insert “of this Territory”.

20 **Heading to Part IV—**

Omit “COMMON LAW”, substitute “OTHER”.

Paragraph 23F (1) (a)—

After “workers” insert “of this Territory”.

Subparagraph 23F (1) (b) (i)—

25 After “workers” insert “of this Territory”.

SCHEDULE 2

Subsection 7 (2)

CONSEQUENTIAL AMENDMENTS—SCHEDULE 3

Preamble (first paragraph)—

Omit “of the employer’s employees”, substitute “worker”.

5 Insertion—

Before clause 1 of the Conditions insert the following clause:

“MEANING OF ‘WORKER’

“1A. In this policy—

10 ‘worker’, in relation to the Employer, means a worker of this Territory within the meaning of the *Workers’ Compensation Act 1951* of the Australian Capital Territory who is employed by the Employer, and ‘workers’ has a corresponding meaning.”.

Clause 2—

After “personal injury” insert “to a worker”.

15 Clause 10—

Omit “employed by the employer”.

Paragraph 11 (a)—

Omit “employed by the employer”.

20 Subparagraph 11 (b) (i)—

Omit “employed by the employer”.

Paragraph 13 (a)—

Omit “employed by the employer”.

Subparagraph 13 (b) (i)—

Omit “employed by the employer”.

Workers' Compensation (Amendment) (No. 2) No. , 1996

NOTE

Principal Act

1 Reprinted as at 1 January 1995 See also Acts Nos 46 and 52, 1995; No. 13, 1996

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