

1995  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mr Berry)

**Workers' Compensation (Amendment)  
Bill 1995**

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

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

**Short title**

5     1. This Act may be cited as the *Workers' Compensation (Amendment) Act 1995*.

**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, or respective days, fixed by the Minister by notice in the *Gazette*.

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Job No . 1995/69

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

## 5 **Principal Act**

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

## **Interpretation**

10 4. Section 6 of the Principal Act is amended by inserting the following definition:

" 'Council' means the Workers' Compensation and Occupational Rehabilitation Council established by section 6D;".

## **Insertion**

5. After section 6B of the Principal Act the following Part is inserted:

## 15 **"PART IA—WORKERS' COMPENSATION AND OCCUPATIONAL REHABILITATION COUNCIL**

### *"Division 1—Preliminary*

## **Interpretation**

"6C. In this Part—

20 'Chairperson' means the Chairperson of the Council appointed under paragraph 6K (a);

'Deputy Chairperson' means the Deputy Chairperson of the Council appointed under paragraph 6K (b).

### *"Division 2—Establishment, functions and powers*

## 25 **Establishment**

"6D. There is established by this section a council by the name of the Workers' Compensation and Occupational Rehabilitation Council.

## **Functions**

"6E. (1) The Council has the following functions:

30 (a) to advise the Minister on matters relating to workers' compensation or occupational rehabilitation;

- (b) to inquire into and report to the Minister on matters referred to the Council by the Minister in relation to workers' compensation or occupational rehabilitation;
  - (c) such other functions as are prescribed.
- 5       “(2) Without limiting the generality of paragraph (1) (a), the matters on which the Council may advise the Minister include the following matters:
- (a) the operation of this Act and the regulations;
  - (b) the approval of a protocol or an amendment to a protocol under section 15F;
  - 10       (c) the provision of education and training in relation to workers' compensation or occupational rehabilitation;
  - (d) the promotion of occupational rehabilitation.

#### **Powers**

- 15       “6F. The Council has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

#### **Annual report**

- “6G. (1) The Council shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the activities of the Council and the operation of this Act during each financial year.
- 20       “(2) The report in respect of a financial year shall be furnished to the Minister within 3 months after the end of that year.
- “3) The Minister shall present a copy of each report to the Legislative Assembly within 6 sitting days of the Assembly after the day on which the Minister received the report.

25                   “*Division 3—Constitution and meetings*

#### **Membership**

- “6H. (1) The Council shall consist of—
- (a) 4 members appointed by the Minister after consultation with such persons or bodies as the Minister considers represent the interests of employers;
  - 30       (b) 4 members appointed by the Minister after consultation with such persons or bodies as the Minister considers represent the interests of employees; and
  - (c) 3 other members appointed by the Minister.

“(2) The performance of the functions of the Council is not affected only by reason of a vacancy or vacancies in its membership.

#### **Terms of appointment**

5 “6I. (1) The members of the Council shall be appointed as part-time members.

“(2) A member of the Council holds office—

- (a) for such period not exceeding 3 years as is specified in the instrument of appointment; and
- 10 (b) on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined in writing by the Minister.

#### **Age limit**

“6J. A person shall not be appointed as a member of the Council—

- (a) if he or she has attained the age of 65 years; or
- 15 (b) for a period that extends beyond the date on which he or she will attain the age of 65 years.

#### **Chairperson and Deputy Chairperson**

“6K. The Minister shall appoint—

- (a) the Chairperson of the Council; and
  - 20 (b) the Deputy Chairperson of the Council;
- from the members of the Council.

#### **Remuneration and allowances**

“6L. (1) A member of the Council shall be paid such remuneration and allowances as are prescribed.

25 “(2) Subsection (1) does not apply—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the members; or
  - (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the members.
- 30

“(3) In subsection (2), ‘determination’ means a determination of the Remuneration Tribunal of the Commonwealth.

**Leave of absence**

"6M. (1) The Minister may grant leave of absence to the Chairperson or Deputy Chairperson on such terms and conditions as to remuneration or otherwise as the Minister determines.

- 5 "2) The Council may grant leave of absence to a member (other than the Chairperson or Deputy Chairperson) on such terms and conditions as to remuneration or otherwise as the Council determines.

**Disclosure of interest**

- 10 "6N. (1) A member of the Council who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Council shall, as soon as practicable after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Council.

- 15 "(2) A disclosure shall be recorded in the minutes of the meeting and, unless the Council otherwise determines, the member shall not—

- (a) be present during any deliberation of the Council with respect to that matter; or
- (b) take part in any decision of the Council with respect to that matter.

"(3) A member referred to in subsection (2) shall not—

- 20 (a) be present during any deliberation of the Council for the purpose of considering whether to make a determination under that subsection in relation to that member; or
- (b) take part in the making by the Council of such a determination.

**Resignation**

- 25 "6O. A member of the Council may resign his or her office by notice in writing signed by the member and delivered to the Minister.

**Termination of appointment**

"6P. (1) The Minister may terminate the appointment of a member of the Council for misbehaviour or physical or mental incapacity.

- 30 "(2) Where the Minister believes on reasonable grounds that—

- (a) a member of the Council referred to in paragraph 6H (1) (a) no longer represents the interests of employers; or
- (b) a member of the Council referred to in paragraph 6H (1) (b) no longer represents the interests of employees;

- 35 the Minister may terminate the appointment of the member.

“(3) If a member of the Council—

- 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 the benefit of those creditors;
- (b) is absent, except on leave granted under section 6M, from 3 consecutive meetings of the Council;
- (c) fails, without reasonable excuse, to comply with an obligation imposed by section 6N; or
- 10 (d) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 12 months or longer;

the Minister shall terminate the appointment of the member.

#### Acting members

15 “6Q. (1) The Minister may, in writing, appoint a person to act as a member of the Council, other than the Chairperson or Deputy Chairperson—

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

“(2) A person appointed to act as a member during a vacancy in a member's office shall not so act continuously for more than 12 months.

“(3) Before appointing a person to act as a member of the Council referred to in paragraph 6H (1) (a), the Minister shall—

- 25 (a) consult with such persons or bodies as the Minister considers represent the interests of employers; and
- (b) have regard to the relevant recommendations of those persons or bodies in relation to the appointment.

30 “(4) Before appointing a person to act as a member of the Council referred to in paragraph 6H (1) (b), the Minister shall—

- (a) consult with such persons or bodies as the Minister considers represent the interests of employees; and
- (b) have regard to the relevant recommendations of those persons or bodies in relation to the appointment.

35 “(5) Anything done by or in relation to a person purporting to act under subsection (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.

**Convening meetings**

“6R. (1) The Chairperson—

- 5 (a) may convene such meetings of the Council as the Chairperson considers necessary for the efficient performance of its functions; and
  - (b) shall, on receipt of a request in writing signed by not less than 4 other members of the Council, convene a meeting of the Council.
- 10 “(2) Where the Chairperson proposes to convene a meeting of the Council, the Chairperson shall, not later than 5 days before the date of the proposed meeting, give to each member of the Council a notice in writing specifying—
- (a) the date, time and place of the meeting; and
  - 15 (b) the matters to be considered at the meeting.

“(3) The Minister may convene a meeting of the Council by notice in writing given to each of the members.

**Procedure at meetings**

20 “6S. (1) The Chairperson shall preside at all meetings of the Council at which the Chairperson is present.

“(2) Where the Chairperson is not present at a meeting of the Council, the Deputy Chairperson shall preside at the meeting.

25 “(3) Where the Chairperson and the Deputy Chairperson are both absent from a meeting of the Council, the members present shall elect 1 of their number to preside at the meeting.

“(4) Subject to section 6R and this section, the member presiding at a meeting of the Council may give directions regarding the procedure to be followed in connection with the meeting.

“(5) At a meeting of the Council, 5 members including—

- 30 (a) 1 of the members referred to in paragraph 6H (1) (a);
- (b) 1 of the members referred to in paragraph 6H (1) (b); and
- (c) 1 of the members referred to in paragraph 6H (1) (c);

constitute a quorum.

“(6) Questions arising at a meeting of the Council shall be decided by a majority of the votes of members present and voting.

“(7) The member presiding at a meeting of the Council has a deliberative vote only.

5       “(8) The Council shall keep a written record of its proceedings.

#### *“Division 4—Advisory committees*

##### **Establishment**

“6T. (1) The Council may constitute such advisory committees as it thinks necessary to assist in the performance of its functions.

10       “(2) The Council shall, when requested to do so by the Minister, constitute an advisory committee to assist it in the performance of its functions in relation to any matter specified by the Minister concerning workers' compensation or occupational rehabilitation.

15       “(3) Subject to any direction by the Council, an advisory committee may determine the manner in which it is to perform its functions.

##### **Remuneration and allowances**

“6U. (1) A member of an advisory committee shall be paid such remuneration and allowances as are prescribed.

“(2) Subsection (1) does not apply—

- 20       (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the members; or
- (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the members.

25       “(3) In subsection (2), ‘determination’ means a determination of the Remuneration Tribunal of the Commonwealth.”.

##### **Approval of protocol**

6. Section 15F of the Principal Act is amended by inserting in subsection (1) “the Council,” after “with”.

##### **30 Regulations**

7. Section 28 of the Principal Act is amended by adding at the end the following subsection:

“(2) Before making any regulations, the Executive shall—

- 35       (a) consult with the Council in relation to the matter to be prescribed; and

- (b) have regard to any recommendation made by the Council to the Executive in relation to that matter.”.

**Transitional**

- 5       8. The amendment made by section 7 applies only to regulations made after the commencement of that section.

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**NOTE**

**Principal Act**

1. Reprinted as at 1 January 1995.