

2015

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Workplace Safety and Industrial Relations)

Workers Compensation Amendment Bill 2015

A Bill for

An Act to amend the *Workers Compensation Act 1951*

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

1 **1 Name of Act**

2 This Act is the *Workers Compensation Amendment Act 2015*.

3 **2 Commencement**

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

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

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

10 **3 Legislation amended**

11 This Act amends the *Workers Compensation Act 1951*.

12 **4 New part 5.4A**

13 *insert*

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

15 **103A Definitions—pt 5.4A**

16 In this part:

17 *annual premium*, for an employer, means the amount paid by the
18 employer for the employer's compulsory insurance policy for
19 1 year.

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

1 **103B Application—pt 5.4A**

2 This part applies to an employer that—

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

5 **103C Appointment**

- 6 (1) An employer must appoint a return-to-work coordinator.
7 (2) If a return-to-work coordinator's position becomes vacant, the
8 employer must appoint another person to the position within
9 3 months after the position becomes vacant.
10 (3) A person commits an offence if—
11 (a) the person is an employer; and
12 (b) the employer fails to comply with a requirement under
13 subsections (1) or (2).
14 Maximum penalty: 50 penalty units.
15 (4) An offence against subsection (3) is a strict liability offence.

16 **103D Functions**

- 17 A return-to-work coordinator has the following functions:
18 (a) to assist injured workers to remain at work, or return to work
19 as soon as practicable following an injury;
20 (b) if the return-to-work coordinator's employer is not a self
21 insurer—to assist the employer's insurer to prepare and
22 implement the return to work plan or personal injury plan for
23 an injured worker;
24 (c) to identify suitable duties for injured workers;

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

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

12 **103E Employer's obligations**

- 13 (1) An employer must—
- 14 (a) provide the facilities and assistance that are reasonably
15 necessary to enable a return-to-work coordinator to exercise
16 the coordinator's functions; and
- 17 (b) not appoint a person as a return-to-work coordinator unless the
18 person—
- 19 (i) has satisfactorily completed training determined by the
20 Minister as prerequisite training for a return-to-work
21 coordinator for this Act; or
- 22 (ii) has experience of the kind determined by the Minister as
23 prerequisite experience for a return-to-work coordinator
24 for this Act; and
- 25 (c) comply with the Minister's guidelines about an employer's
26 responsibilities in relation to return-to-work coordinators; and
- 27 (d) notify the Minister in writing about the contact details for each
28 of the employer's return-to-work coordinators not later than
29 30 days after the day the coordinator is appointed.

- 1 (2) Each of the following is a notifiable instrument:
- 2 (a) a determination under subsection (1) (b);
- 3 (b) a guideline under subsection (1) (c).
- 4 *Note* A notifiable instrument must be notified under the [Legislation Act](#).
- 5 (3) A person commits an offence if—
- 6 (a) the person is an employer; and
- 7 (b) the employer fails to comply with a requirement under
- 8 subsection (1).
- 9 Maximum penalty: 50 penalty units.
- 10 (4) An offence against subsection (3) is a strict liability offence.

11 **103F Register of return-to-work coordinators**

- 12 (1) The work safety commissioner must maintain a register of
- 13 return-to-work coordinators.
- 14 (2) The register must include the following information about a
- 15 return-to-work coordinator:
- 16 (a) name;
- 17 (b) employer;
- 18 (c) position held with employer;
- 19 (d) workplace address;
- 20 (e) telephone number;
- 21 (f) email address.
- 22 (3) The register may be kept in any form, including electronically, that
- 23 the work safety commissioner decides.

- 1 (4) The work safety commissioner must make information about an
2 employer's return-to-work coordinator held in the register available
3 to—
4 (a) an inspector; and
5 (b) an employee of the employer; and
6 (c) the employer's workers compensation insurer.

7 **5 Sections 191 and 192**

8 *substitute*

9 **191 Powers of entry**

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

18 **192 Notification of entry**

- 19 (1) An inspector may enter a workplace or a suspected workplace under
20 section 191 without prior notice to any person.
21 (2) An inspector must, as soon as practicable after entry to the
22 workplace or suspected workplace, take all reasonable steps to
23 notify the following people of the entry and the purpose of the entry:
24 (a) the occupier of the premises;
25 (b) an employer who is on the premises.

- 1 (3) However, an inspector is not required to notify any person if to do
2 so would defeat the purpose for which the place was entered or
3 cause unreasonable delay.

4 **192A General powers on entry**

- 5 (1) An inspector who enters premises under section 191 may—
- 6 (a) require any person on the premises to produce for inspection
7 any document or thing relating to the employment of workers
8 by the employer using the premises; and
- 9 (b) make copies of, or take extracts from a document mentioned in
10 this subsection; and
- 11 (c) require anyone on the premises to produce information relating
12 to a document or thing mentioned in this subsection, or
13 information relating generally to the employment of workers
14 by the employer using the premises; and
- 15 (d) require information from—
- 16 (i) the occupier of the premises; or
- 17 (ii) an employer who is on the premises; or
- 18 (iii) a person whom the inspector believes on reasonable
19 grounds is an employer and who is on the premises.
- 20 (2) For subsection (1) (d), *information* means—
- 21 (a) the person's name and address; and
- 22 (b) the name under which the business carried on at the premises
23 operates.
- 24 (3) An inspector who enters premises in accordance with this section is
25 not authorised to remain on the premises if, at the request of the
26 occupier of the premises or the employer who is on the premises, the
27 inspector does not show the occupier or the employer the identity
28 card issued to the inspector under section 189.

1 (4) A person must not contravene a requirement under this section.
2 Maximum penalty: 50 penalty units.

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

4 **192B Premises used for residential purposes**

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

8 (a) with the consent of the occupier of the premises; or

9 (b) under a search warrant; or

10 (c) for gaining access to a suspected workplace, but only—

11 (i) if the inspector reasonably believes that no reasonable
12 alternative access is available; and

13 (ii) at a reasonable time taking into account the times at
14 which the inspector believes work is being carried out at
15 the place to which access is sought.

16 **6 Dictionary, note 2**

17 *insert*

- 18 • work safety commissioner

19 **7 Dictionary, new definitions**

20 *insert*

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

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

Endnotes

1 Presentation speech

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

2 Notification

Notified under the [Legislation Act](#) on 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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