

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Workplace Safety and Industrial Relations)

Workers Compensation Amendment Bill 2017

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J2017-247

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Workers Compensation Amendment Bill 2017

A Bill for

An Act to amend the *Workers Compensation Act 1951* and the *Workers Compensation Regulation 2002*, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Workers Compensation Amendment Act 2017*.

4 **2 Commencement**

- 5 (1) Sections 5, 7 and 8 are taken to have commenced on 1 July 2017.
6 (2) The remaining provisions commence on the day after this Act's
7 notification day.

8 **3 Legislation amended**

9 This Act amends the *Workers Compensation Act 1951* and the
10 *Workers Compensation Regulation 2002*.

11 *Note* This Act also amends the *Magistrates Court (Workers Compensation*
12 *Infringement Notices) Regulation 2006* (see sch 1).

Part 2 Workers Compensation Act 1951

4 Employment-related diseases Section 28

omit

a contributing factor

substitute

a substantial contributing factor

5 Definitions—pt 4.3 Section 36G (1), new definition of *pension age*

insert

pension age has the meaning given by the *Social Security Act 1991* (Cwlth), section 23 (5A), (5B), (5C) and (5D).

6 When do weekly compensation payments begin etc? New section 38 (4) and (5)

insert

- (4) An employer commits an offence if the employer—
- (a) is required under subsection (1) to begin the payment of workers compensation to a worker; and
 - (b) fails to comply with the requirement.
- Maximum penalty: 10 penalty units.
- (5) An offence against this section is a strict liability offence.

1 **7 Entitlement to weekly compensation for first 26 weeks of**
2 **incapacity**
3 **Section 39 (3) (b) and (c)**

4 *substitute*

- 5 (b) if the worker was, on the initial incapacity date for the injury,
6 younger than the pension age by more than 2 years—for any
7 period after the worker reaches pension age; or
- 8 (c) if the worker was, on the initial incapacity date for the injury,
9 younger than the pension age by 2 years or less—for any
10 period more than 2 years after the initial incapacity date.

11 **8 Entitlement to weekly compensation after first 26 weeks**
12 **of incapacity**
13 **Section 40 (4) (a) and (b)**

14 *substitute*

- 15 (a) if the worker was, on the initial incapacity date for the injury,
16 younger than the pension age by more than 2 years—for any
17 period after the worker reaches pension age; or
- 18 (b) if the worker was, on the initial incapacity date for the injury,
19 younger than the pension age by 2 years or less—for any
20 period more than 2 years after the initial incapacity date.

21 **9 Death benefits**
22 **Section 77 (2) (a) and (b)**

23 *substitute*

- 24 (a) a single lump sum payment of \$539 002.37 wpi indexed to be
25 divided between the dependants;
- 26 (b) for each dependant who is a child—weekly compensation of
27 \$148.23 wpi indexed;

1 **10 Section 77 (2) (c) and (6)**

2 *omit*

3 \$4 000

4 *substitute*

5 \$11 828.87

6 **11 New section 77 (7)**

7 *insert*

8 (7) In this section:

9 *WPI* means the Wage Price Index number published by the
10 Australian Statistician.

11 *wpi indexed*, for an amount, means the amount as adjusted in line
12 with any adjustment in the WPI since the commencement of the
13 provision in which the amount appears.

1 **Part 3** **Workers Compensation**
2 **Regulation 2002**

3 **12** **Schedule 1**

4 *substitute*

5 **Schedule 1** **Diseases related to**
6 **employment**

7 (see s 96)

8 *Note* This table is derived from Deemed Diseases in Australia published by
9 Safe Work Australia in August 2015. The report is accessible at
10 www.safeworkaustralia.gov.au.

11 Part 7 of the report includes recommended guidance material on each
12 disease itemised in the table. The material provides guidance on
13 whether or not a claim might be appropriate given the current
14 knowledge about the disease and its relationship to relevant exposures.

column 1	column 2	column 3
item	disease	employment

INFECTIOUS DISEASE

1	Anthrax	employment involving work with animals or animal carcasses (for example employment as an animal handler, pelt handler, abattoir worker, or meat inspector)
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column 1 item	column 2 disease	column 3 employment
2	Brucellosis	employment involving work with animals or animal carcasses (for example employment as a veterinarian, farmer or farm worker, abattoir worker or laboratory worker)
3	Hepatitis A	employment involving contact with human waste (for example employment as a child care worker, carer of intellectually disabled people, worker in a rural or remote indigenous community, sewage worker or plumber)
4	Hepatitis B and C	employment involving contact with human bodily secretions (for example employment as a health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces or emergency services worker)
5	HIV/AIDS	health care worker or laboratory worker who becomes HIV positive after a needlestick injury

Section 12

column 1 item	column 2 disease	column 3 employment
6	Leptospirosis	employment involving work with animals or animal carcasses (for example employment as a farmer or farm worker, abattoir worker, forestry worker, hunter, veterinarian or livestock transport operator) or work with animal or human waste (for example employment as a plumber)
7	Orf	employment involving work with sheep or sheep carcasses (for example employment as a sheep farmer or farm worker, goat farmer or farm worker, abattoir worker or meat inspector)
8	Q fever	employment involving contact with animals or animal parts in a rural setting (for example an abattoir worker, stock worker, stock transporter, shearer, hide processor, farmer or veterinary surgeon)

column 1 item	column 2 disease	column 3 employment
9	Tuberculosis	employment involving contact with people or animals in situations where tuberculosis prevalence is likely to be significantly higher than the general community (for example employment as a health worker, clinical laboratory worker, funeral parlour staff, farmer or veterinary surgeon), or person with silicosis

MALIGNANCY

10	Salivary gland	employment involving exposure to ionizing radiation
11	Nasopharynx	employment involving exposure to formaldehyde or wood dust
12	Oesophagus	employment involving exposure to ionizing radiation
13	Stomach	employment involving exposure to ionizing radiation
14	Colon and rectum	employment involving exposure to ionizing radiation
15	Liver	employment involving exposure to vinyl chloride monomer, Hepatitis B virus or Hepatitis C virus

Section 12

column 1 item	column 2 disease	column 3 employment
16	Nasal cavity and para-nasal sinuses	employment involving exposure to ionizing radiation, leather dust, nickel or wood dust
17	Larynx	employment involving exposure to strong inorganic acid mist or asbestos
18	Lung	employment involving exposure to arsenic, asbestos, beryllium, bis(chloromethyl)ether, cadmium, chromium VI, diesel engine exhaust, environmental tobacco smoke, ionizing radiation, nickel, polycyclic aromatic hydrocarbons, Radon-222 and its decay products, silica dust (crystalline) or soot (chimney sweeping)
19	Bone	employment involving exposure to ionizing radiation
20	Skin (melanoma)	employment involving exposure to solar radiation or polychlorinated biphenyls
21	Skin (non-melanoma)	employment involving exposure to ionizing radiation, polycyclic aromatic hydrocarbons or solar radiation
22	Mesothelioma	employment involving exposure to asbestos

column 1 item	column 2 disease	column 3 employment
23	Breast (female)	employment involving exposure to ionizing radiation
24	Ovary	employment involving exposure to asbestos
25	Kidney	employment involving exposure to ionizing radiation or trichloroethylene
26	Bladder	employment involving exposure to 2-naphthylamine, benzidine, cyclophosphamide, ionizing radiation, ortho-toluidine, polycyclic aromatic hydrocarbons associated with aluminium production
27	Brain	employment involving exposure to ionizing radiation
28	Thyroid	employment involving exposure to ionizing radiation
29	Leukaemia (excluding chronic lymphatic leukaemia)	employment involving exposure to benzene, butadiene, cyclophosphamide, formaldehyde, Hepatitis C virus or ionizing radiation
30	Non-Hodgkin's Lymphoma	employment involving exposure to ionizing radiation

column 1 item	column 2 disease	column 3 employment
DISEASES OF THE NERVOUS SYSTEM		
31	Parkinson's disease	employment involving exposure to manganese
32	Peripheral neuropathy	employment involving exposure to metals (for example lead, mercury and arsenic), organic solvents (for example n-hexane, carbon disulphide and trichloroethylene), pesticides (for example organophosphates) or acrylamide
33	Noise induced hearing loss	employment involving exposure to persistent or intermittent noise above 85dB(A)
RESPIRATORY DISEASES		
34	Occupational asthma (excluding pre-existing asthma worsened due to exposure to workplace irritants)	employment involving exposure to sensitising agents or irritants
35	Coal workers' pneumoconiosis	employment involving exposure to coal
36	Asbestosis	employment involving exposure to asbestos

column 1 item	column 2 disease	column 3 employment
37	Silicosis	employment involving exposure to silica
38	Other pneumoconiosis	involving exposure known to occasionally cause pneumoconiosis (for example beryllium, tin, iron oxide, barium, aluminium, cobalt or tungsten)
39	Byssinosis	employment involving exposure to cotton, flax, hemp or sisal dust
40	Extrinsic allergic alveolitis	employment involving exposure to damp material of biological origin (for example mouldy hay, straw, grain and feathers)

HEPATIC DISEASES

41	Non-infectious hepatitis	employment involving exposure to agents known to cause hepatitis (particularly organic solvents)
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column 1 item	column 2 disease	column 3 employment
42	Chronic active hepatitis	employment involving contact with human bodily secretions (for example employment as a health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces or emergency services worker) – for a person with known Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV), where the HBV or HCV was contracted through the employment

column 1 item	column 2 disease	column 3 employment
43	Hepatic cirrhosis	employment involving contact with human bodily secretions (for example employment as a health care worker, embalmer, person who handles body substances, clinical laboratory staff, worker in long-term correctional facilities, police, member of the armed forces or emergency services worker) – for a person with known Hepatitis B Virus (HBV) or Hepatitis C Virus (HCV), where the HBV or HCV was contracted through the employment
SKIN DISEASES		
44	Contact dermatitis (irritant and allergic)	employment involving exposure to sensitising agents or irritants
45	Occupational vitiligo	employment involving exposure to para-tertiary-butylphenol, para-tertiary-butylcatechol, para-amylphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone

Section 12

column 1 item	column 2 disease	column 3 employment
MUSCULOSKELETAL DISEASES		
46	Raynaud's disease	employment involving exposure to vibration from powered tools and equipment
47	Bursitis (at the elbow or knee)	employment involving prolonged external friction or pressure or repetitive motion at or about the elbow or the knee
ACUTE POISONING/TOXICITY		
48	Acute poisoning/toxicity (includes acute damage to the heart, lungs, liver, kidney, nervous system and blood)	employment involving exposure to acrylonitrile, alcohols, antimony, arsenic, benzene, beryllium, cadmium, carbon disulphide, chromium, copper, fluorine, glycols, hexane, ketones, lead, manganese, mercury, mineral acids, nitroglycerine or other nitric acid esters, osmium, oxides of nitrogen, ozone, pesticides consisting of organophosphate and organochlorine compounds, herbicides and related compounds, pharmaceutical agents, phosgene, phosphorus, selenium, styrene, thallium, tin, toluene, vanadium, zinc,

column 1 item	column 2 disease	column 3 employment
		chemical asphyxiants (for example carbon monoxide, hydrogen cyanide, hydrogen sulphide or methylene chloride), benzoquinone and other corneal irritants, toxic halogen derivatives of aliphatic or aromatic hydrocarbons, toxic nitro- and amino-derivatives of benzene, and other less common, specific substances known to result in poisoning/toxicity that have not been named here

Amendment [1.1]

1 **Schedule 1** **Magistrates Court (Workers**
2 **Compensation Infringement**
3 **Notices) Regulation 2006**

4 (see s 3)

5 **[1.1] Schedule 1**

6 *substitute*

7 **Schedule 1** **Workers Compensation Act**
8 **infringement notice offences**
9 **and penalties**

10 (see s 7 and s 8)

column 1 item	column 2 offence provision, and if relevant, case	column 3 offence penalty (penalty units)	column 4 infringement penalty (\$)
1	38 (4)	10	300
2	90 (1)	10	300
3	92 (3)	50	1 500
4	94A (1)	50	1 500
5	94B (1)	50	1 500
6	94B (2)	50	1 500
7	109 (1)	10	300
8	109 (2)	10	300
9	126 (1)	50	1 500
10	126A (2)	50	1 500
11	142 (1)	50	1 500
12	147A (2)	50	1 500

column 1 item	column 2 offence provision, and if relevant, case	column 3 offence penalty (penalty units)	column 4 infringement penalty (\$)
13	147A (3)	50	1 500
14	153 (1)	50	1 500
15	154 (1)	10	300
16	155 (3)	50	1 500
17	156 (3)	50	1 500
18	157 (2)	50	1 500
19	158 (3)	50	1 500
20	161 (1), if authorised person under s 161 is inspector	50	1 500
21	164 (6)	50	1 500
22	176 (1)	50	1 500
23	178 (2)	10	300
24	178 (4)	10	300
25	190 (3)	50	1 500

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 31 October 2017.

2 Notification

Notified under the [Legislation Act](#) on 2017.

3 Republications of amended laws

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

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