

Workers Compensation (Requirements for Operation of DI fund—Horse Racing Training and Attendance Activity) Determination 2025 (No 1)

Disallowable instrument DI2025–274

made under the

***Workers Compensation Act 1951*, section 166J (Determination about DI fund objects, prescribed employers and workers)**

EXPLANATORY STATEMENT

This instrument is the *Workers Compensation (Requirements for Operation of DI fund—Horse Racing Training and Attendance Activity) Determination 2025 (No 1)*.

The *Workers Compensation Act 1951* (the Act) establishes the power for the Executive to determine matters under section 166J (1) in relation to prescribed employers and prescribed workers with respect to the objects of the DI fund for the purpose of an employer and worker mentioned in section 166A (2) (b) and (4) (b) of the Act.

This determination sets out the following matters under section 166J (1) of the Act:

- who the class of employer is that may apply to be a prescribed employer—a class of employer is an employer who employs prescribed workers and if not for this instrument would be required to purchase a compulsory insurance policy to cover activities performed in the industry of the Australian and New Zealand Standard Industrial Classification (*ANZSIC*) class 9129 (Other Horse and Dog Racing Activities)
- the class of worker who is a prescribed worker—being a worker who carries out work as a horse attendant or trainer
- how to apply to be a prescribed employer
- conditions on prescribed employers, and
- the maximum period for which an employer may be approved as a prescribed employer—being up to one year before an employer who continues to be in the class of employers able to apply to be a prescribed employer may apply for a further period of approval as a prescribed employer.

Prescribed workers of a prescribed employer are able to access the DI fund's claims management services and infrastructure as provided for under section 166A of the Act and are exempted from needing to purchase a commercial compulsory insurance policy under the Act.

Relevantly, in determining that employers in the ANZSIC class 9129 are able to apply and be approved as prescribed employer the Executive has considered the following factors:

- there is a high risk of market failure in relation to compulsory insurance for this industry with reasonable premium industry rates published by the ACT Government for this industry being suggested at 32.46% of wages for the 2025-26 policy year, 16 times the average all-industries reasonable premium rate
- the sector is small within the context of the ACT private sector workers compensation scheme
- with the industry being small (around 17 employers) and covering around 40 workers, low wages mean that small movements in injuries can have a greater and disproportionate impact on commercial insurance premiums which are based on a percentage of overall wages
- covering a narrow range of jobs in the industry also means that return to work and alternative duties are challenging where there are instances of physical injury.

When applying to become a prescribed employer, an applicant must pay any fees determined under section 166K of the Act.

CONSISTENCY WITH HUMAN RIGHTS

As discussed in the Further Revised Explanatory Statement for the Workplace Legislation Amendment Bill 2025 (No. 2) the amendments to the Default Insurance Fund promote the right to work and other work-related rights (section 27B of the *Human Rights Act 2004*) by ensuring that determined individuals or classes of employers/employees will be covered for workers compensation claims to be administered and paid using the claim management, funding and financial infrastructure established for the Default Insurance Fund. Meaning, under this arrangement, a worker will retain their rights in respect of workers' compensation.

Amendments to the Default Insurance Fund in this Bill do not impose any limitations on human rights. On the contrary, they reinforce and promote the right to work by clarifying the existing framework.

The amendments are not expected to affect the individual rights of workers, nor alter employers' fundamental obligations regarding workers compensation and entitlements for injured or ill workers.

CONSULTATION WITH STAKEHOLDERS

The ACT Insurance Authority with responsibility for managing the DI fund was consulted in the development of this instrument.