



Australian Capital Territory

# **Workers Compensation Regulation 2002**

**SL2002-20**

made under the

**Workers Compensation Act 1951**

**Republication No 36**

**Effective: 11 September 2020 – 8 January 2021**

Republication date: 11 September 2020

Last amendment made by [SL2020-40](#)

## About this republication

### The republished law

This is a republication of the *Workers Compensation Regulation 2002*, made under the *Workers Compensation Act 1951* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 11 September 2020. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 11 September 2020.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Workers Compensation Regulation 2002

made under the

**Workers Compensation Act 1951**

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Australian Capital Territory

# Workers Compensation Regulation 2002

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made under the

[Workers Compensation Act 1951](#)

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## Part 1 Preliminary

### 1 Name of regulation

This regulation is the *Workers Compensation Regulation 2002*.

### 2 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Interpretation generally

### 3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

*Note 1* The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere in this regulation.

For example, the signpost definition ‘*injury management*—see the [Act](#), section 86.’ means that the term ‘injury management’ is defined in the [Act](#), section 86.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

*Note* See the [Legislation Act](#), section 127 (1), (4) and (5) for the legal status of notes.

### 4A Regular contractors and casuals—Act, s 11 (2) (c)

- (1) For the [Act](#), section 11 (2) (c), the following contracts are prescribed:
  - (a) a contract between the individual who is a bookable vehicle driver and the principal that prevents the individual from having an affiliated driver agreement with more than 1 transport booking service;
  - (b) if the individual is a bookable vehicle driver and does not have a contract mentioned in paragraph (a)—a contract of bailment between the individual and the principal under which the individual has the use of a bookable vehicle.
- (2) In this section:

*affiliated driver agreement*—see the [Road Transport \(Public Passenger Services\) Act 2001](#), section 36.

*bookable vehicle*—see the [Road Transport \(Public Passenger Services\) Act 2001](#), section 29.

*bookable vehicle driver*—see the [Road Transport \(Public Passenger Services\) Act 2001](#), section 29.

*transport booking service*—see the [Road Transport \(Public Passenger Services\) Act 2001](#), section 28.

## 5 Approval of medical guidelines

- (1) The Minister may approve medical guidelines about—
  - (a) the diagnosis of, or prognosis or treatment for, injuries; or
  - (b) how to assess the extent of an injury for the [Act](#), part 4.4 (Compensation for permanent injuries).

*Note* Power given under a regulation to make a statutory instrument (including medical guidelines) includes power to amend or repeal the instrument (see [Legislation Act](#), s 46 (1)).

- (2) If the work health and safety council sets up an advisory committee mentioned in the [Act](#), section 206 (Minister must take advice), the Minister must consider any recommendation made by the committee about proposed medical guidelines.
- (3) An approved medical guideline is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (4) An approved medical guideline may apply, adopt or incorporate an instrument as in force at a particular time.

*Note 1* The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

*Note 2* A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (5) The [Legislation Act](#), section 47 (5) does not apply to a medical guideline mentioned in subsection (1) (b).

## 6 **Meaning of *clinically relevant research***

In this regulation:

***clinically relevant research*** means research—

- (a) recognised as clinically relevant by a specialist medical college;  
or  
(b) approved by the Minister under section 7.

## 7 **Approval of clinically relevant research**

- (1) The Minister may approve information (including information on an internet site) as clinically relevant research.
- (2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (3) An approval may apply, adopt or incorporate an instrument as in force from time to time.

*Note 1* The [Legislation Act](#), s 47 (3) provides that a statutory instrument may apply an instrument as in force only at a particular time. Subsection (3) allows the approval to also apply, adopt or incorporate an instrument as in force from time to time.

*Note 2* A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (4) The [Legislation Act](#), section 47 (5) and (6) does not apply to an instrument mentioned in subsection (3).

*Note* The text of an applied, adopted or incorporated instrument, whether applied as in force at a particular time or from time to time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

## 8 **Meaning of *evidence-based methodology***

In this regulation:

***evidence-based methodology*** means the application by a doctor of the doctor's clinical expertise, and any relevant approved medical guidelines or clinically relevant research, to—

- (a) identify the aetiology of an injured worker's injury; and
- (b) diagnose the injury; and
- (c) give a prognosis for the injury; and
- (d) make recommendations about medical treatment for the injury.

## 8A **Calculation of total wages—Act, s 7A, def *total wages***

The *ACT Wages and Earnings Guide* is prescribed for working out total wages.

*Note* The *ACT Wages and Earnings Guide* is accessible at [www.ors.act.gov.au/worksafe](http://www.ors.act.gov.au/worksafe).

## **Part 3                      Medical assessments**

### **Division 3.1              How medical assessments must be done**

#### **8B              Doctor that may provide medical certificate for imminently fatal asbestos-related disease—Act, s 116 (2) (a)**

A doctor in any of the following fields of medical specialty is prescribed:

- (a) oncology;
- (b) respiratory medicine;
- (c) cardio-thoracic surgery.

#### **9                      Using evidence-based methodology**

- (1) A doctor who does a medical assessment of an injured worker must do the assessment using evidence-based methodology.

*Note*      The [Act](#), s 118 (2) provides that a medical certificate required to accompany a claim for weekly compensation must comply with the requirements for medical assessments under the regulations.

If s 118 (2) is not complied with, for example, if a medical certificate about an injured worker is deficient because it does not refer to an approved medical guideline or clinically relevant research for that type of injury, under the [Act](#), s 119 the insurer may tell the worker about the deficiency. The worker's claim is not considered to have been made until the deficiency is fixed.

If the insurer does not tell a worker about a deficiency, the claim is taken to comply with s 118 (2) (see the [Act](#), s 119 (3)).

- (2) The doctor must record the results of the assessment, including the following matters:
- (a) the aetiology of the worker's injury;

- (b) the diagnosis of the injury;
- (c) the prognosis for the injury;
- (d) the recommended medical treatment for the injury.

**Example—*aetiology of injury***

exposure to asbestos fibres

**Example—*diagnosis of injury***

mesothelioma

**Example—*prognosis of injury***

2 year life expectancy from date of diagnosis

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (3) However, for a later medical assessment of an injured worker, the doctor who does the assessment need record a matter mentioned in subsection (2) only if the doctor considers that there has been a change in the matter.
- (4) In this section:

***initial medical assessment***, of an injured worker, means the first medical assessment by the worker's doctor for a medical certificate mentioned in the [Act](#), section 116 (2) (Making claim for compensation).

***later medical assessment***, of an injured worker, means a medical assessment other than—

- (a) an initial or second medical assessment of the worker; or
- (b) if the worker's nominated treating doctor is replaced by another nominated treating doctor—the first medical assessment of the worker by the new nominated treating doctor.

***second medical assessment*** means an assessment mentioned in the [Act](#), section 72 (Second assessments).



## **Division 3.2                      Medical specialists**

### **10                      Assessment by medical specialist—request by other than nominated treating doctor**

- (1) This section does not apply to a request by an injured worker's nominated treating doctor for a medical assessment of the worker by a medical specialist.
- (2) The following (the *requesting person*) may request a medical assessment of an injured worker by a medical specialist:
  - (a) the worker;
  - (b) the worker's lawyer;
  - (c) the worker's employer;
  - (d) the employer's insurer;
  - (e) the DI fund manager.
- (3) At least 2 weeks before the day of the medical assessment, written notice of the request must be given—
  - (a) if the request is made by the worker or the worker's lawyer—to the worker's employer and the employer's insurer; or
  - (b) if the request is made by the worker's employer or the employer's insurer—to the worker and the worker's lawyer.
- (4) Subsection (3) does not prevent a medical assessment of the worker happening with less than the 2 weeks notice if the parties agree to the shorter notice.
- (5) The notice must state—
  - (a) the reasons for the request (including a brief description of any particular thing that led to the request); and
  - (b) why the medical specialist is the appropriate specialist to do the medical assessment; and

- (c) which of the following matters are to be assessed in relation to the injury:
- (i) aetiology;
  - (ii) diagnosis;
  - (iii) prognosis;
  - (iv) recommended medical treatment.

**Example for par (a)**

An insurer disagrees with an injured worker's nominated treating doctor's assessment that the worker has suffered a relapse, and needs more time off work. The insurer considers that the time off does not relate to the injury.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (6) The requesting person, and the people to whom the requesting person must give notice under subsection (3), must give all medical evidence about the injured worker to the medical specialist at least 2 working days before the day of the medical assessment.

## 11 Specialist's report about assessment

- (1) A medical specialist assessing an injured worker must, when asked by someone (the *requesting person*) under section 10 (2), prepare a report about the medical assessment.
- (2) If the medical specialist's assessment differs from the medical evidence about the injured worker, the report must state—
  - (a) how the assessment differs and why; and
  - (b) why the medical specialist's assessment is preferable.
- (3) If there is no difference between the medical specialist's assessment and the medical evidence, the report must say there is no difference.

- (4) The requesting person must give a copy of the report to the people to whom the requesting person must give notice under section 10 (3) within 5 working days after the day the report is given to the requesting person.

*Note* An injured worker's nominated treating doctor may adopt (completely or partly) a medical specialist's assessment about treatment for the worker's treatment.

## **12 Medical specialist as new nominated treating doctor**

- (1) This section applies if the nominated treating doctor (the *treating doctor*) for an injured worker considers it appropriate that a medical specialist becomes the nominated treating doctor for the worker, and the worker agrees.
- (2) The treating doctor may ask the medical specialist, in writing, to become the nominated treating doctor for the worker.
- (3) If the medical specialist agrees in writing, the medical specialist becomes the nominated treating doctor for the worker instead of the treating doctor.

## Part 4 Medical referees

### 13 Consultation about appointment of medical referees

If the work health and safety council sets up an advisory committee mentioned in the [Act](#), section 206 (Minister must take advice), the Minister may ask the committee to give advice about who should be a medical referee.

### 14 Medical referee to review medical evidence etc

- (1) This section applies to a medical referee for a conciliation or arbitration.
- (2) The medical referee must—
  - (a) review the medical evidence about the injured worker; and
  - (b) review any relevant approved medical guidelines or clinically relevant research about the worker's injury; and
  - (c) apply the referee's clinical expertise to the review under paragraphs (a) and (b); and
  - (d) do a medical assessment of the worker, unless the referee considers it unnecessary.

### 15 Medical referee's report

- (1) A medical referee's report for a conciliation or arbitration must state—
  - (a) the results of the referee's assessment of the aetiology or diagnosis of, or the prognosis or recommended medical treatment for, the worker's injury; and
  - (b) if the referee's assessment differs from the medical evidence about the worker's injury—
    - (i) how the assessment differs and why; and

- (ii) why the referee's assessment is preferable; and
- (c) if the referee considered it unnecessary to assess the worker—  
why the referee did not consider it necessary.

**Example of why assessment may differ**

The medical evidence does not take into account relevant approved medical guidelines or clinically relevant research.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) If there is no difference between the medical referee's assessment and the medical evidence, the report must say there is no difference.

## Part 5 Rehabilitation providers

### 16 Minister may approve rehabilitation providers

- (1) The Minister may, in writing, approve a person as a rehabilitation provider.
- (2) The Minister may approve a rehabilitation provider for not longer than 3 years.

### 17 Procedure for approval of rehabilitation provider

In deciding whether to approve a person as a rehabilitation provider, the Minister must act in accordance with the *Guide—Nationally Consistent Approval Framework for Workplace Rehabilitation Providers* as in force from time to time.

*Note* The *Guide—Nationally Consistent Approval Framework for Workplace Rehabilitation Providers* is accessible at [www.hwca.org.au/NationalGuide.php](http://www.hwca.org.au/NationalGuide.php).

## **Part 6**                      **Conciliation**

### **Division 6.1**                **Appointment and functions of conciliators**

#### **36**                      **Appointment of conciliators**

- (1) The Minister may appoint conciliators for this regulation.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) The Minister may appoint a person as a conciliator only if satisfied that the person has expertise in dispute resolution relating to workers compensation.
- (3) If the work health and safety council sets up an advisory committee mentioned in the [Act](#), section 206 (Minister must take advice), the Minister may ask the committee to give advice about who should be a conciliator.

#### **37**                      **Function of conciliators**

- (1) The function of a conciliator is to help injured workers and their employers to reach agreement about matters in issue arising from workers' claims for compensation.
- (2) The conciliator must encourage injured workers and their employers to reach agreements that allow injury management to continue.

## Division 6.2 Conciliations

### 38 When must conciliation be held?

- (1) A conciliation about a matter in issue arising from a worker's claim for compensation must be held before arbitration of the matter only if—
  - (a) the worker and the worker's employer agree to participate in the conciliation; and
  - (b) a conciliator is available.
- (2) This section does not apply if the matter in issue is an insurer's rejection of a worker's claim for compensation.

### 39 Action by conciliator

- (1) This section applies if a worker and the worker's employer have asked a conciliator to help them reach agreement on a matter in issue arising from the worker's claim for compensation.
- (2) If the conciliator is available to help the worker and the worker's employer, the conciliator must, as soon as practicable—
  - (a) set a time and place for the conciliation; and
  - (b) tell each party to the conciliation, in writing, about the time and place.

*Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.

### 40 Particulars of matters in issue

- (1) Each party to the conciliation must, at least 7 days before the day for conciliation, give to each other party and the conciliator, written details of the matters in issue arising from the worker's claim for compensation (the *written details document*).

*Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.



- (2) The written details document must include information available to a party that the party believes on reasonable grounds would help the parties reach agreement about the matter.

#### **41 Parties to attend conciliation**

- (1) The parties to a conciliation must attend the conciliation.
- (2) A party's representative may also attend the conciliation.

#### **42 Parties must make genuine effort to agree**

At conciliation, the parties must make a genuine effort to reach an agreement that allows injury management to continue for the injured worker.

#### **43 Medical referee and conciliation**

- (1) With the agreement of the parties to the conciliation, the conciliator may ask a medical referee to prepare a report to help the parties to reach agreement.

*Note* Section 14 (Medical referee to review medical evidence etc) sets out what a medical referee must do for a conciliation and s 15 (Medical referee's report) states what a medical referee's report for a conciliation must contain.

- (2) The medical referee must give a copy of the report to the conciliator.
- (3) The conciliator must give a copy of the report to each party.

#### **44 Decision or recommendation by conciliator**

- (1) The conciliator may, at any time, decide that a matter in issue arising from the worker's claim for compensation is not suitable for resolution by conciliation.
- (2) If agreement is reached on a matter in issue between the parties to the conciliation, the parties must, with the help of the conciliator, record the agreement in writing.

- (3) If a matter in issue between the parties remains unresolved at the end of the conciliation, the conciliator may make a recommendation about the matter.
- (4) The written details document mentioned in section 40 (1), evidence given during a conciliation, or anything said or done during conciliation, must not be admitted in evidence at an arbitration.
- (5) However, any recommendation by the conciliator under subsection (3) may be admitted in evidence at an arbitration.

#### **45 Who pays for conciliation?**

- (1) The insurer must meet all costs and disbursements of, and incidental to, the conciliation.
- (2) If a party is represented at conciliation by a representative (including a lawyer), the conciliator may allow the representative to claim from the insurer reasonable costs and disbursements of, and incidental to, the conciliation.

#### **47 Protocol about conciliation**

- (1) The Minister may approve a protocol about—
  - (a) the administration of conciliations; or
  - (b) costs and disbursements of, and incidental to, conciliations, including maximum amounts conciliators may allow under section 45 (Who pays for conciliation?); or
  - (c) the giving of information to the Minister by conciliators or other people about conciliations in a way that maintains the confidentiality of conciliations.
- (2) An approved protocol is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## Part 7 Arbitration

### 48 When may application for arbitration be filed?

- (1) An injured worker or the worker's employer may file an application for the arbitration of—
  - (a) a matter in issue arising from the worker's claim for compensation; or
  - (b) the insurer's rejection of the worker's claim for compensation.
- (2) However, if the injured worker and the employer must participate in a conciliation under section 38, the application for arbitration may be filed only if—
  - (a) the parties have attended the conciliation; and
  - (b) either—
    - (i) the matter was not resolved at the conciliation; or
    - (ii) the conciliator decided that the matter was not suitable for conciliation.

### 49 Commercial Arbitration Act not apply

The *Commercial Arbitration Act 2017* does not apply to an arbitration.

### 50 Representative committee already in existence

- (1) This section applies to a matter to be decided by arbitration if there is a committee.
- (2) The matter must be decided by arbitration by the committee unless a party to the matter objects to the arbitration by written notice given to the other party before the committee meets to consider the matter.

- (3) However, the committee may refer a matter it is required to arbitrate for arbitration by the Magistrates Court under this part if the committee considers it appropriate to do so.

**51 When must Magistrates Court arbitrate matter?**

The Magistrates Court must arbitrate a matter if—

- (a) there is no committee; or
- (b) there is a committee but—
  - (i) a party to the matter objects to the matter being arbitrated by the committee; or
  - (ii) the committee refers the matter to the court for arbitration; or
  - (iii) the committee fails to decide the matter within 1 month after the day the claim the matter arises from is made.

**52 Committee may refer questions of law**

A committee may refer a question of law to the Magistrates Court.

**53 Powers of Magistrates Court on arbitration**

For a proceeding on an arbitration, the Magistrates Court has the same power to require the attendance of witnesses and the production of documents as it would have if the proceeding were an action in the court.

**54 Medical referees**

- (1) The Magistrates Court or a committee may ask a medical referee to help the court or committee to assess a medical matter during an arbitration.
- (2) The Magistrates Court or committee may ask a medical referee to report on a medical matter during, or arising from, an arbitration.

**55 Only 1 medical referee for arbitration**

- (1) The same medical referee must help the Magistrates Court or a committee throughout an arbitration.
- (2) However, another medical referee may help the Magistrates Court or committee if the medical referee is unavailable for any reason.

**56 Procedure on arbitration**

- (1) This section applies to an arbitration unless the Act or rules expressly state otherwise.
- (2) The Magistrates Court or a committee may decide its own procedures.
- (3) The Magistrates Court or a committee need not act in a formal way and is not bound by rules of evidence.
- (4) The Magistrates Court or a committee may inform itself about anything in the way it considers appropriate.
- (5) The Magistrates Court or a committee must act according to equity, good conscience and the substantial merits of the matter being arbitrated, without regard to technicalities and legal forms.

**57 Costs**

- (1) The successful party to an arbitration or related proceeding is entitled to be indemnified for party and party costs (including reasonable disbursements) by the unsuccessful party, unless the Magistrates Court or a committee otherwise orders.
- (2) However, the Magistrates Court or committee must not award the costs of, or incidental to, an arbitration or related proceeding (including reasonable disbursements) against someone claiming compensation honestly in the arbitration or proceeding.

- (3) The costs of, and incidental to, an arbitration or related proceeding are payable at  $\frac{2}{3}$  of the scale of costs prescribed by the rules applying to a civil proceeding in the Supreme Court, unless the Magistrates Court or committee otherwise orders.
- (4) Costs must be taxed, unless the parties otherwise agree.
- (5) Disbursements are payable in full.

**58 Claim against arbitration award**

- (1) This section applies if a worker is paid an amount of compensation on arbitration.
- (2) The worker's lawyer or the lawyer's agent may claim costs in relation to the arbitration, or claim a lien in relation to the costs, from the compensation only if, on application by the worker, lawyer or agent, the Magistrates Court or committee awards the lawyer or agent the costs.
- (3) Costs to be awarded to the lawyer or the lawyer's agent—
  - (a) are payable at  $\frac{2}{3}$  of the scale of costs prescribed by the rules applying to a civil proceeding in the Supreme Court, unless the Magistrates Court or committee otherwise orders; and
  - (b) must be taxed.

## Part 8                      Compulsory insurance policies— contents

### 59                      Definitions for pt 8

In this part:

*employer*, in relation to a compulsory insurance policy, means the employer to whom the policy was issued.

*insurer*, in relation to a compulsory insurance policy, means the insurer who issued the policy.

### 60                      Insurer to indemnify employer

- (1) The compulsory insurance policy must provide that the insurer will indemnify the employer against any compensation the employer is liable to pay under the Act.
- (2) However, the compulsory insurance policy must provide that the insurer will not indemnify the employer for any amount for which the Act expressly states that the employer is not to be indemnified.

*Note*            The employer is liable to pay any amount incurred between the time by which the employer must tell the insurer that an injury has happened and the time the employer tells the insurer that the injury has happened and may not be indemnified by the insurer for the amount (see [Act](#), s 95).

### 61                      Insurer to notify renewal

The compulsory insurance policy must provide that the insurer must notify the employer when the policy will end at least 30 days before the day the policy is to end.

**62 Insurer to tell employer about certain obligations**

- (1) The insurer must tell the employer about the employer's obligations under the sections of the Act mentioned in subsection (3) (the *required information*) in the compulsory insurance policy or in accordance with subsection (2).
- (2) If the compulsory insurance policy does not contain the required information, the policy must provide that the insurer must tell the employer the required information within 14 days after the day the policy is issued.
- (3) The sections of the [Act](#) are as follows:
  - section 155 (Information for insurers on application for issue or renewal of policies)
  - section 156 (Information for insurers after renewal of policies)
  - section 157 (Information for insurers after end or cancellation of policies)
  - section 158 (Information for new insurers after change of insurers)
  - section 159 (Six-monthly information for insurers).

**62A Required information from employer in policy**

- (1) The compulsory insurance policy issued by an insurer to an employer must include the following information:
  - (a) the required information given by the employer to the insurer;
  - (b) the proportion of the premium payment for the policy that has been recovered from the employer to offset amounts paid by the insurer to the DI fund.
- (2) In this section:

*required information*, given by an employer, means the information given by the employer under a provision of the Act mentioned in section 62 (3).



**63 Services to be provided under policy**

The compulsory insurance policy must include a description of the services to be provided under the policy and when they will be provided.

**64 Cancellation of insurance policy**

The compulsory insurance policy must include a statement that the policy may only be cancelled by the insurer in accordance with a protocol approved by the Minister.

**65 Compliance with Act by employer**

The compulsory insurance policy must include a provision that states that the employer must comply with the [Act](#), chapter 5 (Injury management process) and section 126 (Action by employer in relation to claims).

**66 Result of under-reporting of wages by employer**

- (1) The compulsory insurance policy must provide that the employer must pay the insurer the amount mentioned in subsection (2) if—
  - (a) the employer, to obtain insurance from the insurer, has told the insurer the employer is paying a stated amount of wages; and
  - (b) the amount of wages the employer is paying is at least 10% more than the amount the employer told the insurer.
- (2) The amount payable to the insurer is the amount equal to double the difference between the premium the employer paid and the premium the employer would have paid if the employer had told the insurer the true amount of wages the employer was paying.

**67 Insurance policy may contain other provisions**

The compulsory insurance policy may contain any other provision the parties agree to if the provision is not inconsistent with the Act, this regulation or the rules.

## **Part 9** Approved insurers

### **Division 9.1** Approval of insurers

#### **68** Application for approval of insurers

- (1) An application for approval as an insurer must contain or be accompanied by the following:
  - (a) a written statement by the insurer that the insurer will be able to meet present and future claims under the Act for which the insurer is, or is expected to be, liable;
  - (b) evidence that the insurer has a place of business in the ACT, and the place's address;
  - (c) if the insurer has, or is applying for, a corresponding approval—evidence of the approval or application;
  - (d) evidence that the insurer has adequate reinsurance, or other arrangements in place, to cover the insurer's future liability under the Act;
  - (e) a copy of the insurer's annual report and balance sheet (or, if either is not available, equivalent information) for each of the previous 3 years;
  - (f) a written agreement by the insurer to allow the Minister to discuss the affairs and performance of the insurer with Commonwealth or State Ministers responsible for workers compensation or corporate or prudential regulation;
  - (g) a written agreement by the insurer to provide information, and pay any fee determined, for a compliance audit or financial audit required by the Minister under part 10A;
  - (h) a written statement by the insurer that the insurer will—
    - (i) comply with the Act and this regulation; and

(ii) comply with the conditions of approval imposed under division 9.2; and

(iii) comply with any protocol approved under section 101.

**Example for par (h)**

An insurer includes in its written statement that it has hired an external provider to establish and maintain its injury management program, and gives details about the arrangement with the provider.

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) The Minister may, in writing, require further information from the insurer that provides evidence the insurer—
- (a) is financially and prudentially sound; or
  - (b) will be able to meet its obligations under the Act in relation to injury management programs and personal injury plans.
- (3) In this section:

*corresponding approval* means an approval under a State law that has the same effect, or substantially the same effect, as an approval under this part.

**69 When must Minister not approve insurer?**

The Minister may approve an insurer only if satisfied—

- (a) the insurer is financially and prudentially sound; and
- (b) the insurer, if approved, will—
  - (i) be able to meet the insurer's current and expected liabilities under the Act; and
  - (ii) be able to meet the insurer's obligations under the Act; and
  - (iii) comply with the conditions on the approval.

**70 How long does insurer's approval last?**

The Minister may approve an insurer under this part for not longer than 3 years.

**71 What must insurer's approval state?**

An insurer's approval must state the insurer's name and the length of the approval.

**Division 9.2 Conditions on insurers**

**72 Information about ability to meet liabilities etc**

It is a condition of an insurer's approval that the insurer gives the Minister information reasonably required in writing by the Minister to allow the Minister to assess—

- (a) the insurer's continuing ability to meet the insurer's current and expected liabilities under the Act; and
- (b) whether the insurer continues to be financially and prudentially sound; and
- (c) the insurer's continuing ability to meet its obligations under the Act.

**73 Information about workers compensation**

It is a condition of an insurer's approval that the insurer gives information reasonably required in writing by the Minister about claims that have been made against the insurer under the Act.

**73A Insurer to provide information and pay costs of audit**

It is a condition of an insurer's approval that the insurer, for a compliance audit or financial audit under part 10A—

- (a) complies with the reasonable requirements of the person conducting the audit; and

- (b) allows the person conducting the audit access to the information reasonably required to conduct the audit; and
- (c) pays any fee for the audit that is not more than the determined fee.

*Note* The Minister may approve a protocol about how a person who is subject to an audit must participate in the audit (see s 101 (2) (b) and (c)).

## **74 Information on working out premiums**

- (1) It is a condition of an insurer's approval that—
  - (a) on written request by the Minister, the insurer gives the Minister, in writing, any relevant information about how the insurer works out premiums for compulsory insurance policies; and
  - (b) the insurer must give information under paragraph (a) within the period stated in the request that is not less than 21 days after the day the Minister asked for the information.

- (2) In this section:

*relevant information* means information the Minister is satisfied, on reasonable grounds, will help the Minister to decide whether premiums are being worked out in accordance with the principles for working out premiums under section 75.

## **75 Principles for working out premiums**

- (1) In working out premiums, an insurer must—
  - (a) provide for sufficient (but not excessive) income from premiums to fully fund liabilities arising from policies of insurance to which the premiums relate; and
  - (b) ensure that premiums are structured to minimise, as far as reasonably practicable, the cross subsidisation of premium rating groups.

- (2) For this section, there is sufficient income from premiums to fully fund the liabilities to which the premiums relate if the premiums are sufficient to do all of the following:
- (a) fully fund claims liabilities arising from the insurance policies to which the premiums relate;
  - (b) pay all acquisition, policy administration and claims settlement expenses of the insurer;
  - (c) provide a profit margin after the payment of claims, costs and expenses that represents an adequate return on capital invested and compensation for the risk taken;
  - (d) provide for anything else that a prudent insurer should, in the circumstances, provide for;
  - (e) provide for contributions or other charges payable by the insurer under the Act.
- (3) For subsection (2) (a), the amount of claims liabilities of the insurer does not include the treatment, care and support costs of a participant in the LTCS scheme.

*Note* **LTCS scheme**—see the [LTCS Act](#), dictionary.

- (4) An insurer is taken to have complied with subsection (1) (a) if the insurer provides for sufficient (but not excessive) income from premiums in accordance with actuarial advice about the liability arising from policies of insurance to which the premiums relate.

## **76 Information to be given quickly**

- (1) It is a condition of an insurer's approval that any information required to be given to the Minister is given within 14 days after the day the information is asked for, or within a longer period allowed by the Minister.
- (2) This section does not apply to section 74 (Information on working out premiums).

**77 Action if rehabilitation provider's approval suspended or revoked**

It is a condition of an insurer's approval that the insurer must arrange for another rehabilitation provider to be responsible for a worker's vocational rehabilitation under a personal injury plan if—

- (a) the approval of the rehabilitation provider responsible for the worker's rehabilitation under the plan has been suspended or revoked; and
- (b) the insurer is responsible for the personal injury plan for the worker.

**78 Compliance with protocols by insurer**

It is a condition of an insurer's approval that the insurer complies with any protocol approved by the Minister that relates to insurers.

**79 Other conditions on insurers**

The Minister may impose on an insurer's approval any condition relating to the insurer's—

- (a) financial and prudential soundness; or
- (b) ability to meet the insurer's current and expected liabilities under the Act; or
- (c) ability to meet the insurer's obligations under the Act.

**Division 9.3 Action against insurers**

**80 Notice of proposed action on insurer's approval**

If the Minister proposes to take action (the *proposed action*), mentioned in section 81 (2) (Action other than revocation of insurer's approval) in relation to an insurer, or to revoke the insurer's approval the Minister must give the insurer a notice—

- (a) stating the proposed action; and

- (b) stating the grounds for the proposed action; and
- (c) inviting the insurer to make written representations, within a stated period of not less than 14 days after the day the insurer is given the notice, about why the proposed action should not be taken.

## **81 Action other than revocation of insurer's approval**

- (1) This section applies to an approved insurer if—
  - (a) the insurer—
    - (i) contravenes the [Act](#), section 112 (Compliance by insurers, including DI fund) or another provision of the Act; or
    - (ii) is unable to meet the insurer's current and expected liabilities under the Act; or
    - (iii) no longer has unlimited reinsurance for a single event to cover the insurer's expected liability under the Act; or
    - (iv) no longer has a place of business in the ACT; or
    - (v) fails to comply with a condition on the insurer's approval; and
  - (b) the Minister has given the insurer notice under section 80 (Notice of proposed action on insurer's approval).
- (2) After considering any written representations made by the insurer within the period for representations stated in the notice, the Minister may—
  - (a) if the proposed action is to suspend the approval for a stated period—suspend the approval for not longer than the period, or do 1 or more of the things mentioned in paragraph (b); or



(b) if the proposed action is to do a thing mentioned in this paragraph—do 1 or more of the following:

- (i) order the insurer to pay to the Territory a financial penalty of not more than \$1 000;
- (ii) impose a condition on the insurer's approval (for example, by including a condition providing for increased supervision of the insurer by the Minister);

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

(iii) censure the insurer;

(iv) order the insurer to take remedial action.

(3) The Minister must tell the insurer in writing about the decision—

(a) if the decision is to take action other than suspension—by giving the insurer a reviewable decision notice; or

*Note* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

(b) if the decision is to suspend the insurer's approval—under section 83 (What if Minister decides to suspend or revoke insurer's approval?).

(4) In this section:

***proposed action***—see section 80 (Notice of proposed action on insurer's approval).

## **82 Revocation of insurer's approval**

(1) This section applies to an insurer's approval if—

(a) a matter mentioned in section 81 (1) (a) (Action other than revocation of insurer's approval) applies to the insurer; and

(b) either—

- (i) the Minister has done a thing mentioned in section 81 (2), but the matter continues or is repeated; or
    - (ii) the Minister considers the matter serious; and
  - (c) the Minister gives notice under section 80 (Notice of proposed action on insurer's approval) that the Minister proposes to revoke the approval.
- (2) After considering any written representation made by the insurer within the period for representations stated in the notice, the Minister may—
- (a) do 1 or more of the things mentioned in section 81 (2); or
  - (b) revoke the insurer's approval.
- (3) Without limiting subsection (1) (b) (ii), a *serious matter* includes the following:
- (a) failing to establish an injury management program under the [Act](#), section 88 (Insurer to establish etc injury management program);
  - (b) failing to give effect to an injury management program under the [Act](#), section 89 (Insurer to give effect to injury management program);
  - (c) failing to establish a personal injury plan for an injured worker under the [Act](#), section 97 (Personal injury plan for worker with significant injury);
  - (d) contravening a direction under the [Act](#), section 114 (Unreasonableness in stopping payment);
  - (e) failing to comply with the Minister's notice, or giving details that are false or misleading in a material respect, under the [Act](#), section 164 (Provision of information to Minister).

- (4) The Minister must tell the insurer in writing about the decision—
- (a) if the decision is to take action other than suspension or revocation—by giving the insurer a reviewable decision notice; or
- Note* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.
- (b) if the decision is to suspend or revoke the insurer's approval—under section 83.

**83 What if Minister decides to suspend or revoke insurer's approval?**

- (1) If the Minister decides to suspend or revoke an insurer's approval, the Minister must tell the insurer in writing about the decision and when the suspension or revocation takes effect.
- Note* The Minister's notice must comply with the requirements of the *Act*, s 199.
- (2) A suspension or revocation must not take effect earlier than 7 days after the day the insurer is told about the decision.
- (3) Subject to the *Act*, section 146 (Effect of revocation or suspension of approval), if the Minister suspends an insurer's approval, the insurer is, during the suspension—
- (a) taken not to be an approved insurer; and
  - (b) disqualified from applying for approval as an insurer.
- (4) The Minister may, at any time, by written notice to the insurer, end or reduce the period of suspension of the insurer's approval.

**84 When does revocation make previous insurance policies not compulsory insurance policies?**

- (1) If an insurer's approval is revoked, a compulsory insurance policy issued before the revocation is taken not to be a compulsory insurance policy only if a reason for the revocation is the winding-up of the insurer.
- (2) The compulsory insurance policy stops being a compulsory insurance policy 7 days after the day the revocation takes effect.

## **Part 10 Self-insurers**

### **Division 10.1 Preliminary**

#### **85 Meaning of *exemption***

In this part:

*exemption* means an exemption from an employer's requirement under the [Act](#), section 147 (Compulsory insurance—employers) to maintain a compulsory insurance policy with an approved insurer.

### **Division 10.2 Exemption by Minister**

#### **86 What application for exemption must contain**

- (1) An application by an employer for exemption must contain or be accompanied by the following:
  - (a) a written statement by the employer that the employer will be able to meet present and future claims under the Act for which the employer is, or is expected to be, liable;
  - (b) if the employer has, or is applying for, a corresponding exemption—evidence of the exemption or application;
  - (c) evidence that the employer has reinsurance of at least \$500 000 cpi indexed for a single event to cover the employer's future liability under the Act;
  - (d) a copy of the employer's annual report and balance sheet (or, if either is not available, equivalent information) for each of the previous 3 years;
  - (e) an actuarial report;

*Note* See s (3) for what must be included in an actuarial report.

- (f) a guarantee from an authorised deposit-taking institution in favour of the DI fund for the guaranteed amount in relation to the employer;

*Note* The guaranteed amount is defined in s (4).

- (g) a written agreement by the employer to allow the Minister to discuss the affairs and performance of the employer with Commonwealth or State Ministers responsible for workers compensation or corporate or prudential regulation;
- (h) a written agreement by the employer to provide information, and pay any fee determined, for a compliance audit or financial audit required by the Minister under part 10A;
- (i) a copy of the employer's occupational health and safety policy and evidence that it has been brought to the attention of the employer's workers;
- (j) the name, address in the ACT and telephone number of a person nominated by the employer to be the contact officer who is to give information about claims under the Act to the Minister;
- (k) evidence that the employer has in place an occupational health and safety management system that complies with AS/NZS 4801;
- (l) a written statement by the employer that the employer will—
  - (i) comply with the Act and this regulation; and
  - (ii) comply with the conditions of exemption imposed under division 10.3; and
  - (iii) comply with any protocol approved under section 101;
- (m) a written agreement by the employer to allow, and pay the cost of, an investigation by the Minister to assess the employer's statement under paragraph (l).

- (2) The Minister may, in writing, require further information from the employer that provides evidence the employer—
- (a) is financially and prudentially sound; or
  - (b) will be able to meet the employer’s obligations under the Act in relation to injury management programs and personal injury plans.
- (3) For subsection (1) (e), the actuarial report must contain the following:
- (a) an estimate of the employer’s current outstanding liability in relation to compensable injuries;
  - (b) an estimate of the total of the employer’s expected liability for each year in relation to which the employer is applying to be a self-insurer;
  - (c) an estimate of the total of the expected payments in satisfaction of the employer’s liability for compensable injuries that will be made for each year in relation to which the employer is applying to be a self-insurer.
- (4) For subsection (1) (f), the ***guaranteed amount*** is the greater of the following amounts:
- (a) \$750 000; or
  - (b) an amount calculated by an actuary to be the estimate of outstanding claims liability at the balance date, plus a prudential margin of 30%.
- (5) The [Legislation Act](#), section 47 (6) does not apply to AS/NZS 4801.

*Note* AS/NZS 4801 does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)).

(6) In this section:

**AS/NZS 4801** means AS/NZS 4801 (Occupational health and safety management systems - Specification with guidance for use), as in force from time to time.

*Note* AS/NZS 4801 may be purchased at [www.standards.org.au](http://www.standards.org.au).

**corresponding exemption** means an exemption under a State law that has the same effect, or substantially the same effect, as an exemption under this part.

**cpi indexed**—see the [Act](#), section 20.

## 87 Minister may exempt

- (1) On application under section 86 (What application for exemption must contain), the Minister may, in writing, exempt the employer from the requirement to comply with the [Act](#), section 147 (1).
- (2) However, the Minister may exempt the employer only if satisfied—
  - (a) the employer is financially and prudentially sound; and
  - (b) the employer, if exempted, will—
    - (i) be able to meet the employer’s current and expected liabilities under the Act; and
    - (ii) be able to meet the employer’s obligations under the Act in relation to injury management programs and personal injury plans; and
    - (iii) be able to comply with the employer’s health and safety duties under the [Work Health and Safety Act 2011](#); and
    - (iv) comply with the conditions on the exemption; and
  - (c) the proposed exemption will not adversely affect the operation of the workers compensation scheme under the Act.



## **Division 10.3                      Conditions on exemptions**

### **88                      Giving information about workers compensation, vocational rehabilitation and occupational health and safety**

It is a condition of an exemption that the employer gives information to the Minister reasonably required in writing by the Minister about workers compensation, vocational rehabilitation and occupational health and safety in relation to the employer to allow the Minister to assess the employer's continuing suitability to be a self-insurer.

### **89                      Action if rehabilitation provider's approval suspended or revoked**

It is a condition of an exemption that the employer must arrange for another rehabilitation provider to be responsible for a worker's vocational rehabilitation under a personal injury plan if—

- (a) the approval of the rehabilitation provider responsible for the worker's rehabilitation under the plan has been suspended or revoked; and
- (b) the employer is responsible for the personal injury plan for the worker.

### **90                      Compliance with protocols by self-insurer**

It is a condition of an exemption that the employer complies with any protocol approved by the Minister that relates to self-insurers.

### **90A                      Self-insurer to provide information and pay costs of audit**

It is a condition of an exemption that the employer, for a compliance audit or financial audit under part 10A—

- (a) complies with the reasonable requirements of the person conducting the audit; and

- (b) allows the person conducting the audit access to the information reasonably required to conduct the audit; and
- (c) pays any fee for the audit that is not more than the determined fee.

*Note* The Minister may approve a protocol about how a person who is subject to an audit must participate in the audit (see s 101 (2) (b) and (c)).

## **91 Other conditions on exemptions**

The Minister may impose on an employer's exemption any condition relating to the employer's (the *self-insurer*)—

- (a) financial and prudential soundness; or
- (b) ability to meet the self-insurer's current and expected liabilities under the Act; or
- (c) ability to meet the self-insurer's obligations under the Act in relation to injury management programs and personal injury plans.

## **Division 10.4 Action against self-insurers**

### **92 Notice of proposed action against self-insurer**

If the Minister proposes to take action (the *proposed action*) mentioned in section 93 (Action other than revocation of self-insurer's exemption) in relation to a self-insurer, or to revoke the self-insurer's exemption, the Minister must give the self-insurer a notice—

- (a) stating the proposed action; and
- (b) stating the grounds for the proposed action; and
- (c) inviting the self-insurer to make written representations, within a stated period of not less than 14 days after the day the self-insurer is given the notice, about why the proposed action should not be taken.

**93 Action other than revocation of self-insurer's exemption**

- (1) This section applies to a self-insurer if—
  - (a) the self-insurer—
    - (i) contravenes the [Act](#), section 112 (Compliance by insurers, including DI fund) or another provision of the Act; or
    - (ii) is unable to meet the self-insurer's current and expected liabilities under the Act; or
    - (iii) no longer has reinsurance of at least \$500 000 cpi indexed for a single event to cover the employer's future liability under the Act; or
    - (iv) does not have the guarantee from an authorised deposit-taking institution mentioned in section 86 (1) (f) (What application for exemption must contain); or
    - (v) fails to comply with a condition on the self-insurer's exemption; and
  - (b) the Minister has given the self-insurer notice under section 92 (Notice of proposed action against self-insurer).
- (2) After considering any written representation made by the self-insurer within the period for representations stated in the notice, the Minister may—
  - (a) if the proposed action is to suspend the self-insurer's exemption for a stated period—suspend the exemption for not longer than the period, or do 1 or more of the things mentioned in paragraph (b); or
  - (b) if the proposed action is to do a thing mentioned in this paragraph—do 1 or more of the following:
    - (i) order the self-insurer to pay to the Territory a financial penalty of not more than \$1 000;

- (ii) impose a condition on the self-insurer's exemption (for example, by including of a condition providing for increased supervision of the self-insurer by the Minister);

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (iii) censure the self-insurer;
  - (iv) order the self-insurer to take remedial action.
- (3) The Minister must tell the self-insurer in writing about the decision—
- (a) if the decision is to take action other than suspension—by giving the self-insurer a reviewable decision notice; or

*Note* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

- (b) if the decision is to suspend the self-insurer's exemption—in accordance with section 95 (What if Minister decides to suspend or revoke self-insurer's exemption?).
- (4) In this section:
- proposed action**—see section 92 (Notice of proposed action against self-insurer).

## 94 Revocation of self-insurer's exemption

- (1) This section applies to a self-insurer if—
- (a) a matter mentioned in section 93 (1) (a) (Action other than revocation of self-insurer's exemption) applies to the self-insurer; and
  - (b) the Minister has done a thing mentioned in section 93 (2), but the matter continues or is repeated; and
  - (c) the Minister gives notice under section 92 (Notice of proposed action against self-insurer) that the Minister proposes to revoke the exemption.

- (2) After considering any written representation made by the self-insurer within the period for representations stated in the notice, the Minister may—
  - (a) do 1 or more of the things mentioned in section 93 (2); or
  - (b) revoke the self-insurer's exemption.
- (3) The Minister must tell the self-insurer in writing about the decision—
  - (a) if the decision is to take action other than suspension or revocation—by giving the self-insurer a reviewable decision notice; or

*Note* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

  - (b) if the decision is to suspend or revoke the self-insurer's exemption—in accordance with section 95.

## **95 What if Minister decides to suspend or revoke self-insurer's exemption?**

- (1) If the Minister decides to suspend or revoke a self-insurer's exemption, the Minister must tell the self-insurer in writing about the decision and when the suspension or revocation takes effect.

*Note* The Minister's notice must comply with the requirements of the [Act](#), s 199.
- (2) A suspension or revocation must not take effect earlier than 7 days after the day the self-insurer is told about the decision.
- (3) If the Minister suspends a self-insurer's exemption, the self-insurer is, during the suspension—
  - (a) taken not to be a self-insurer; and
  - (b) disqualified from applying for an exemption.

**Part 10** Self-insurers  
**Division 10.4** Action against self-insurers

Section 95

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- (4) The Minister may, at any time, by written notice to the self-insurer, end or reduce the period of suspension of the self-insurer's exemption.

## Part 10A Compliance and financial audits

### 95A Compliance audits

(1) The Minister may direct a compliance auditor to conduct a compliance audit of—

- (a) an approved insurer or an insurer that has applied to be an approved insurer; or
- (b) a self-insurer or an employer that has applied to be a self-insurer.

*Note* A fee may be determined under the [Act](#), s 221 for this provision.

(2) The compliance auditor must—

- (a) conduct the compliance audit in accordance with any protocol approved by the Minister for the audit; and
- (b) provide a written report to the Minister and the person audited, within the time set by the Minister.

*Note* The person audited must comply with the requirements of the person conducting the audit (see s 73A and s 90A).

(3) In this section:

***compliance audit*** means an audit of—

- (a) compliance with the Act and this regulation; and
- (b) for an approved insurer or an insurer that has applied to be an approved insurer—compliance with the conditions of approval under division 9.2; and
- (c) for a self insurer or an employer that has applied to be a self-insurer—compliance with the conditions of exemption under division 10.3; and
- (d) compliance with a relevant protocol approved under section 101.

*compliance auditor* means a person appointed under section 95C to conduct a compliance audit.

### 95B Financial audits

(1) The Minister may direct a financial auditor to conduct a financial audit of—

- (a) an approved insurer or an insurer that has applied to be an approved insurer; or
- (b) a self-insurer or an employer that has applied to be a self-insurer.

*Note* A fee may be determined under the [Act](#), s 221 for this provision.

(2) The financial auditor must—

- (a) conduct the financial audit in accordance with any protocol approved by the Minister for the audit; and
- (b) provide a written report to the Minister and the person audited, within the time set by the Minister.

*Note* The person audited must comply with the requirements of the person conducting the audit (see s 73A and s 90A).

(3) In this section:

*financial audit* means an audit of—

- (a) financial and prudential soundness; and
- (b) the ability to meet current and expected liabilities under the Act.

*financial auditor* means a person appointed under section 95C to conduct a financial audit.

### 95C Appointment of auditors

(1) The director-general may—

- (a) appoint a suitably qualified person as a *compliance auditor* to conduct compliance audits under section 95A; and



- (b) appoint an auditor as a *financial auditor* to conduct financial audits under section 95B.
- (2) A compliance auditor or financial auditor must not be appointed for longer than 3 years.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

## Part 11 Miscellaneous

### 96 Diseases related to employment

For the [Act](#), section 28 (Employment-related diseases), a disease of a kind mentioned in an item in schedule 1, column 2 is related to employment of a kind mentioned in the item, column 3.

### 98 Reviewable decision—[Act](#), s 199 (b)

A decision mentioned in schedule 3, part 3.1, column 3, under a provision mentioned in column 2 in relation to the decision, is prescribed.

### 98A Notice of reviewable decision—[Act](#), s 199A (1)

An entity mentioned in schedule 3, part 3.1, column 4 in relation to a decision is prescribed for the decision.

### 98B Internal review of certain decisions—[Act](#), s 199B (1)

A reviewable decision mentioned in schedule 3, part 3.2, column 3 under a provision mentioned in column 2 in relation to the decision, is declared to be an internally reviewable decision.

### 99 Court approved termination

- (1) This section applies if an insurer intends to apply to the Magistrates Court under the [Act](#), section 132 (Rejecting claims from 1 year) for leave to end payments of weekly compensation to a worker.

*Note* An insurer must apply to the Magistrates Court if the insurer wants to end payments of compensation 1 year or longer after the claim is made (see [Act](#), s 132).

- (2) The insurer must give the worker notice of the insurer's intention to apply to the Magistrates Court for leave.

- (3) The insurer must give a copy of a notice under subsection (2) to the DI fund manager as soon as practicable.

Maximum penalty: 5 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) If the Magistrates Court is satisfied that the worker is not entitled to receive weekly compensation, the court must give leave to the insurer to end payment of the compensation to the worker after a stated day that is at least 8 weeks after the day the insurer gave the worker notice under subsection (2).

## 100 **Approved protocols about certain documents and information**

- (1) The Minister may approve a protocol about the requirements for or contents of—
- (a) a form for a claim; or
  - (b) the register; or
  - (c) an injury notice; or
  - (d) any other document (other than approved forms) mentioned in the Act.

- (2) The Minister may approve a protocol about the form in which information required under the Act or this regulation must be given.

- (3) An approved protocol is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (4) In this section:

***injury notice***—see the [Act](#), section 93 (Early notification of workplace injury).

***register***—see the [Act](#), section 92 (Register of injuries).

**101 Approved protocols for insurers**

- (1) If a person is required or authorised to do something under the Act or this regulation, the Minister may approve a protocol about how the person must do the thing.
- (2) Without limiting subsection (1), the Minister may approve a protocol about—
  - (a) how payments by an approved insurer or self-insurer to the DI fund required under the Act or this regulation must be made; and
  - (b) how a person subject to a compliance audit under section 95A (Compliance audits) must participate in the audit; and
  - (c) how a person subject to a financial audit under section 95B (Financial audits) must participate in the audit; and
  - (d) how any of the following required under the Act or this regulation must be given:
    - (i) information in relation to a compulsory insurance policy;
    - (ii) information in relation to payments by an approved insurer or self-insurer to the DI fund, including information required to be given by an insurer to an employer under section 62A (Required information from employer in policy).
- (3) An approved protocol is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

## Part 13 Transitional—Employment and Workplace Safety Legislation Amendment Act 2020

### 104 Extension of exemption for self-insurers

- (1) This section applies if a self-insurer's exemption ends on 31 December 2020.
- (2) The work health and safety commissioner may, by written notice, extend the exemption for a further 12 months if the self-insurer provides the following documents to support the extension:
  - (a) a written statement by the self-insurer that the self-insurer will be able to meet present and future claims under the Act for which the self-insurer is, or is expected to be, liable;
  - (b) a guarantee from an authorised deposit-taking institution in favour of the DI fund for the greater of the following amounts:
    - (i) \$750 000;
    - (ii) an amount calculated by an actuary to be the estimate of outstanding claims liability at the balance date, plus a prudential margin of 30%;
  - (c) a written statement by the self-insurer that the self-insurer will comply with—
    - (i) the Act and this regulation; and
    - (ii) the conditions of exemption imposed under division 10.3; and
    - (iii) any protocol approved under section 101;
  - (d) a written statement by the self-insurer of the estimated total wages to be paid during the extension period by the self-insurer to territory workers employed by the self-insurer.

**105 Extension of approval for approved insurers**

- (1) This section applies if an approved insurer's approval ends on 31 December 2020.
- (2) Despite section 70 (How long does insurer's approval last?), the work health and safety commissioner may, by written notice, extend the approval for a further 12 months if the approved insurer provides the following documents to support the extension:
  - (a) a written statement by the insurer that the insurer will be able to meet present and future claims under the Act for which the insurer is, or is expected to be, liable;
  - (b) evidence that the insurer has adequate reinsurance, or other arrangements in place, to cover the insurer's future liability under the Act;
  - (c) a written statement by the insurer that the insurer will comply with—
    - (i) the Act and this regulation; and
    - (ii) the conditions of approval imposed under division 9.2; and
    - (iii) any protocol approved under section 101.

**106 Expiry—pt 13**

This part expires on the day the *Employment and Workplace Safety Legislation Amendment Act 2020*, part 3 (Workers Compensation Act 1951) commences.

*Note* A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

## Schedule 1 Diseases related to employment

(see s 96)

*Note* This table is derived from Deemed Diseases in Australia published by Safe Work Australia in August 2015. The report is accessible at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

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

column 1 item	column 2 disease	column 3 employment
<b>INFECTIOUS DISEASE</b>		
1	Anthrax	employment involving work with animals or animal carcasses (for example employment as an animal handler, pelt handler, abattoir worker, or meat inspector)
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)

**Schedule 1** Diseases related to employment

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<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
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
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)



column 1 item	column 2 disease	column 3 employment
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 practitioner)
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 practitioner), or person with silicosis
<b>MALIGNANCY</b>		
10	Salivary gland	employment involving exposure to ionizing radiation

**Schedule 1** Diseases related to employment

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<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
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
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

<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
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
23	Breast (female)	employment involving exposure to ionizing radiation
24	Ovary	employment involving exposure to asbestos

Schedule 1 Diseases related to employment

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column 1 item	column 2 disease	column 3 employment
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

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**DISEASES OF THE NERVOUS SYSTEM**

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31	Parkinson's disease	employment involving exposure to manganese
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column 1 item	column 2 disease	column 3 employment
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)

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### RESPIRATORY DISEASES

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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
37	Silicosis	employment involving exposure to silica

**Schedule 1** Diseases related to employment

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<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
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)

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**HEPATIC DISEASES**

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41	Non-infectious hepatitis	employment involving exposure to agents known to cause hepatitis (particularly organic solvents)
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<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
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

Schedule 1 Diseases related to employment

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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

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**SKIN DISEASES**

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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-amyphenol, hydroquinone, or the monobenzyl or monobutyl ether of hydroquinone



column 1 item	column 2 disease	column 3 employment
<b>MUSCULOSKELETAL DISEASES</b>		
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
<b>ACUTE POISONING/TOXICITY</b>		
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,

**Schedule 1** Diseases related to employment

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<b>column 1 item</b>	<b>column 2 disease</b>	<b>column 3 employment</b>
		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

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## Schedule 3 Reviewable decisions

(see s 98, s 98A and s 98B)

### Part 3.1 Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
1	<a href="#">Act</a> , 18 (3)	refuse to exempt principal from s 18 (2) (which makes commercial volunteers workers)	applicant for exemption	Minister
2	<a href="#">Act</a> , 145 (1)	refuse to approve insurer	applicant for approval	Minister
3	<a href="#">Act</a> , 149 (4)	determine recovery amount	employer	director-general
4	<a href="#">Act</a> , 162A (3)	determine recovery amount	employer	director-general
5	16 (1)	refuse to approve person as rehabilitation provider	applicant for approval	Minister
6	16 (2)	approve rehabilitation provider for less than 3 years	applicant for approval	Minister
7	28	impose condition on rehabilitation provider's approval	rehabilitation provider	Minister

**Schedule 3**  
**Part 3.1**

Reviewable decisions  
Reviewable decisions

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>	<b>column 5 decision- maker</b>
8	33	suspend rehabilitation provider's approval, amend conditions of rehabilitation provider's approval or censure the approved rehabilitation provider	rehabilitation provider that has approval suspended or that has conditions amended or that is censured	Minister
9	34	revoke or suspend rehabilitation provider's approval, amend conditions of rehabilitation provider's approval or censure the approved rehabilitation provider	rehabilitation provider that has approval revoked or suspended or that has conditions amended or that is censured	Minister
10	70	approve insurer for less than 3 years	applicant for approval	Minister
11	79	impose condition on insurer's approval	insurer	Minister

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>	<b>column 5 decision- maker</b>
12	81	suspend insurer's approval, amend conditions of insurer's approval or censure the approved insurer	insurer that has approval suspended or conditions amended or that is censured	Minister
13	82	suspend or revoke insurer's approval, amend conditions of insurer's approval or censure the approved insurer	insurer that has approval revoked or suspended or conditions amended or that is censured	Minister
14	87	refuse to exempt an employer from requirement to maintain compulsory insurance policy	applicant for exemption	Minister
15	91	impose condition on employer's exemption	employer	Minister
16	93	suspend self-insurer's exemption, amend conditions of self-insurer's exemption or censure the self-insurer	self-insurer that has approval suspended or conditions amended or that is censured	Minister

**Schedule 3**  
**Part 3.2**

Reviewable decisions  
Internally reviewable decisions

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<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>	<b>column 5 decision- maker</b>
17	94	suspend or revoke self-insurer's exemption, amend conditions of self-insurer's exemption or censure the self-insurer	self-insurer that has approval revoked or suspended or conditions amended or that is censured	Minister

**Part 3.2 Internally reviewable decisions**

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 decision-maker</b>
1	<a href="#">Act, 149 (4)</a>	determine recovery amount	director-general
2	<a href="#">Act, 162A (3)</a>	determine recovery amount	director-general

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## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

*Note 2* For example, the [Legislation Act](#), dict, pt 1 defines the following terms:

- AS/NZS (see s 164 (2))
- doctor
- director-general (see s 163)
- nurse
- Minister (see s 162)
- the Territory.

*Note 3* Terms used in this regulation have the same meaning that they have in the [Workers Compensation Act 1951](#) (see [Legislation Act](#), s 148.) For example, the following terms are defined in the [Workers Compensation Act 1951](#), dict:

- approved insurer
- approved rehabilitation provider (see s 139 (1))
- auditor
- committee
- compulsory insurance policy
- injured worker
- medical referee
- self-insurer
- weekly compensation
- workplace injury.

***approved medical guidelines*** means medical guidelines approved under section 5 (Approval of medical guidelines).

***arbitration*** means arbitration under the Act.

***clinically relevant research***—see section 6.

***conciliation*** means conciliation under the Act.

***employer***—

- (a) see the [Act](#), dictionary; or
- (b) for part 8 (Compulsory insurance policies—contents)—see section 59.

***evidence-based methodology***—see section 8.

***exemption***, for part 10 (Self-insurers)—see section 85.

***injury management***—see the [Act](#), section 86.

***injury management program***—see the [Act](#), section 86.

***insurer***—

- (a) see the [Act](#), dictionary; or
- (b) for part 8 (Compulsory insurance policies—contents)—see section 59.

***medical evidence***, for an injured worker, means a record (however described) made in relation to the worker's injury by—

- (a) a doctor; or
- (b) a rehabilitation provider; or
- (c) a dentist, chiropractor, psychologist, masseur, osteopath, physiotherapist, remedial kinesiologist or speech therapist.

***medical specialist*** means a doctor—

- (a) with specialist qualifications and experience in medicine recognised by the relevant Australian specialist medical college; and
- (b) who practises within the specialty.

***nominated treating doctor***—see the [Act](#), section 86.

***personal injury plan***—see the [Act](#), section 85A.

***protocol***—see the [Act](#), dictionary.



***specialist medical college*** means a specialist medical college recognised by the National Specialist Qualification Advisory Council of Australia.

***work health and safety council*** means the Work Health and Safety Council established under the [Work Health and Safety Act 2011](#), schedule 2, section 2.1.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This regulation was originally the *Workers Compensation Regulations 2002*. It was renamed under the *Legislation Act 2001*.

#### **Workers Compensation Regulation 2002 SL2002-20**

notified LR 28 June 2002

s 1, s 2 commenced 28 June 2002 (LA s 75)

remainder commenced 1 July 2002 (s 2)

as amended by

#### **Workers Compensation Amendment Regulations 2002 (No 1)**

##### **SL2002-29**

notified LR 25 October 2002

s 1, s 2 commenced 25 October 2002 (LA s 75 (1))

remainder commenced 26 October 2002 (s 2)

#### **Workers Compensation Amendment Act 2003 (No 2) A2003-49 sch 2 pt 2.2**

notified LR 3 December 2003

s 1, s 2 commenced 3 December 2003 (LA s 75 (1))

sch 2 pt 2.2 commenced 5 April 2004 (s 2 and [CN2004-7](#))

#### **Health Professionals Legislation Amendment Act 2004 A2004-39 sch 1 pt 1.11**

notified LR 8 July 2004

s 1, s 2 commenced 8 July 2004 (LA s 75 (1))

sch 1 pt 1.11 commenced 7 July 2005 (s 2 and see [Health Professionals Act 2004](#) A2004-38, s 2 and [CN2005-11](#))

#### **Workers Compensation Amendment Regulations 2004 (No 1)**

##### **SL2004-27**

notified LR 12 July 2004

s 1, s 2 commenced 12 July 2004 (LA s 75 (1))

remainder commenced 13 July 2004 (s 2)

#### **Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.75**

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.75 commenced 10 January 2005 (s 2 and see [Court Procedures Act 2004](#) A2004-59, s 2 and [CN2004-29](#))

## Endnotes

3 Legislation history

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**Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.74**

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.74 commenced 2 June 2005 (s 2 (1))

**Workers Compensation Amendment Regulation 2005 (No 1)**

**SL2005-43**

notified LR 22 December 2005

s 1, s 2 commenced 22 December 2005 (LA s 75 (1))

remainder commenced 23 December 2005 (s 2)

**Workers Compensation Amendment Act 2006 A2006-4 sch 2 pt 2.4**

notified LR 22 February 2006

s 1, s 2 commenced 22 February 2006 (LA s 75 (1))

sch 2 pt 2.4 commenced 1 July 2006 (s 2 (2))

**Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.63**

notified LR 12 August 2008

s 1, s 2 commenced 12 August 2008 (LA s 75 (1))

sch 3 pt 3.63 commenced 26 August 2008 (s 2)

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.110**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.110 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35](#), s 2 (1) and [CN2009-2](#))

**Work Safety Legislation Amendment Act 2009 A2009-28 sch 2 pt 2.15**

notified LR 9 September 2009

s 1, s 2 commenced 9 September 2009 (LA s 75 (1))

sch 2 pt 2.15 commenced 1 October 2009 (s 2 and see [Work Safety Act 2008 A2008-51](#), s 2 (1) (b) and [CN2009-11](#))

**Workers Compensation Amendment Act 2009 A2009-56 pt 3**

notified LR 16 December 2009

s 1, s 2 commenced 16 December 2009 (LA s 75 (1))

s 50, s 51 commenced 1 July 2010 (s 2 (1))

pt 3 remainder commenced 17 December 2009 (s 2 (2))

**Health Practitioner Regulation National Law (ACT) Act 2010 A2010-10 sch 2 pt 2.23**

notified LR 31 March 2010  
s 1, s 2 commenced 31 March 2010 (LA s 75 (1))  
sch 2 pt 2.23 commenced 1 July 2010 (s 2 (1) (a))

**Workers Compensation Amendment Regulation 2010 (No 1) SL2010-17**

notified LR 20 May 2010  
s 1, s 2 commenced 20 May 2010 (LA s 75 (1))  
remainder commenced 21 May 2010 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.178**

notified LR 30 June 2011  
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
sch 1 pt 1.178 commenced 1 July 2011 (s 2 (1))

**Workers Compensation Amendment Regulation 2011 (No 1) SL2011-27**

notified LR 1 September 2011  
s 1, s 2 commenced 1 September 2011 (LA s 75 (1))  
remainder commenced 2 September 2011 (s 2)

**Work Health and Safety (Consequential Amendments) Act 2011 A2011-55 sch 1 pt 1.13**

notified LR 14 December 2011  
s 1, s 2 commenced 14 December 2011 (LA s 75 (1))  
sch 1 pt 1.13 commenced 1 January 2012 (s 2 and see [Work Health and Safety Act 2011 A2011-35, s 2](#) and [CN2011-12](#))

**Statute Law Amendment Act 2012 A2012-21 sch 3 pt 3.57**

notified LR 22 May 2012  
s 1, s 2 commenced 22 May 2012 (LA s 75 (1))  
sch 3 pt 3.57 commenced 5 June 2012 (s 2 (1))

**Statute Law Amendment Act 2014 A2014-18 sch 3 pt 3.24**

notified LR 20 May 2014  
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))  
sch 3 pt 3.24 commenced 10 June 2014 (s 2 (1))

## Endnotes

3 Legislation history

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**Workers Compensation Amendment Regulation 2014 (No 1)  
SL2014-36**

notified LR 19 December 2014  
s 1, s 2 commenced 19 December 2014 (LA s 75 (1))  
remainder commenced 20 December 2014 (s 2)

**Lifetime Care and Support (Catastrophic Injuries) Amendment  
Act 2016 A2016-25 sch 1 pt 1.2**

notified LR 12 May 2016  
s 1, s 2 commenced 12 May 2016 (LA s 75 (1))  
sch 1 pt 1.2 commenced 13 May 2016 (s 2)

**Workers Compensation Amendment Act 2016 (No 2) A2016-27 pt 3**

notified LR 15 June 2016  
s 1, s 2 commenced 15 June 2016 (LA s 75 (1))  
pt 3 commenced 1 July 2017 (s 2)

**Road Transport (Taxi Industry Innovation) Legislation Amendment  
Regulation 2016 (No 1) SL2016-20 sch 1 pt 1.7**

notified LR 26 July 2016  
s 1, s 2 commenced 26 July 2016  
sch 1 pt 1.7 commenced 1 November 2016 (s 2 (2))

**Commercial Arbitration Act 2017 A2017-7 sch 1 pt 1.10**

notified LR 4 April 2017  
s 1A, s 1B commenced 4 April 2017 (LA s 75 (1))  
sch 1 pt 1.10 commenced 1 July 2017 (s 1B and [CN2017-1](#))

**Workers Compensation Amendment Act 2017 A2017-49 pt 3**

notified LR 12 December 2017  
s 1, s 2 taken to have commenced 1 July 2017 (LA s 75 (2))  
pt 3 commenced 13 December 2017 (s 2 (2))

**Veterinary Practice Act 2018 A2018-32 sch 3 pt 3.16**

notified LR 30 August 2018  
s 1, s 2 commenced 30 August 2018 (LA s 75 (1))  
sch 3 pt 3.16 commenced 21 December 2018 (s 2 and [CN2018-12](#))

**Work Health and Safety Amendment Act 2019 A2019-38 sch 1 pt 1.11**

notified LR 31 October 2019  
s 1, s 2 commenced 31 October 2019 (LA s 75 (1))  
sch 1 pt 1.11 commenced 30 April 2020 (s 2 (1) and LA s 79)

**Employment and Workplace Safety Legislation Amendment Act 2020****A2020-30 sch 1 pt 1.3**

notified LR 9 July 2020

s 1, s 2 commenced 9 July 2020 (LA s 75 (1))

sch 1 pt 1.3 awaiting commencement

**Workers Compensation Amendment Regulation 2020 (No 1)****SL2020-40**

notified LR 10 September 2020

s 1, s 2 commenced 10 September 2020 (LA s 75 (1))

remainder commenced 11 September 2020 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Name of regulation

s 1 am R8 LA

#### Offences against regulation—application of Criminal Code etc

s 2 om LA s 89 (4)  
ins [A2003-49](#) amdt 2.44

#### Notes

s 4 (2), (3) exp 1 July 2004 (s 4 (3))

#### Regular contractors and casuals—Act, s 11 (2) (c)

s 4A ins [SL2016-20](#) amdt 1.49

#### Approval of medical guidelines

s 5 am [A2006-4](#) amdt 2.5; [A2009-28](#) amdt 2.37; [A2012-21](#)  
amdt 3.217; [A2014-18](#) amdt 3.112, amdt 3.113;  
[A2019-38](#) amdt 1.27

#### Approval of clinically relevant research

s 7 sub [SL2002-29](#) s 4  
am [A2012-21](#) amdt 3.217; [A2014-18](#) amdts 3.114-3.117

#### Calculation of total wages—Act, s 7A, def *total wages*

s 8A ins [A2009-56](#) s 50

#### Doctor that may provide medical certificate for imminently fatal asbestos-related disease—Act, s 116 (2) (a)

s 8B ins [A2016-27](#) s 22

#### Using evidence-based methodology

s 9 am [A2016-27](#) s 23

#### Assessment by medical specialist—request by other than nominated treating doctor

s 10 am [SL2002-29](#) s 5; ss renum R2 LA (see [SL2002-29](#) s 6);  
[A2016-27](#) s 24

#### Consultation about appointment of medical referees

s 13 am [A2006-4](#) amdt 2.6; [A2009-28](#) amdt 2.37;  
[A2019-38](#) amdt 1.27

#### Rehabilitation providers

pt 5 hdg sub [A2009-56](#) s 51

#### Preliminary

div 5.1 hdg om [A2009-56](#) s 51

#### Minister may approve rehabilitation providers

s 16 sub [A2009-56](#) s 51



**Approval of rehabilitation providers**div 5.2 hdg om [A2009-56](#) s 51**Procedure for approval of rehabilitation provider**s 17 sub [A2009-56](#) s 51**Factors for approval as rehabilitation provider**s 18 om [A2009-56](#) s 51**Application for approval as rehabilitation provider**s 19 om [A2009-56](#) s 51**When may Minister approve rehabilitation provider?**s 20 om [A2009-56](#) s 51**Conditions on rehabilitation providers**div 5.3 hdg om [A2009-56](#) s 51**Ability to provide vocational rehabilitation**s 21 om [A2009-56](#) s 51**Qualifications of rehabilitation providers and their employees**

s 22 (4)-(6) exp 1 July 2003 (s 22 (6))  
table renum R8 LA  
am [A2004-39](#) amdt 1.47, amdt 1.48; [A2010-10](#) amdt 2.131  
table am [A2010-10](#) amdts 2.132-2.134  
om [A2009-56](#) s 51

**Written records by rehabilitation providers**s 23 om [A2009-56](#) s 51**Electronic records by rehabilitation providers**s 24 table renum R8 LA  
om [A2009-56](#) s 51**Giving information by rehabilitation providers**s 25 om [A2009-56](#) s 51**Compliance with protocol by rehabilitation providers**s 26 om [A2009-56](#) s 51**Establishing personal injury plan**s 27 om [A2009-56](#) s 51**Other conditions on rehabilitation providers**s 28 om [A2009-56](#) s 51**Role of approved rehabilitation provider and protocol**div 5.4 hdg om [A2009-56](#) s 51**Role of approved rehabilitation provider—general**s 29 om [A2009-56](#) s 51

## Endnotes

4 Amendment history

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**Role of approved rehabilitation provider—establishing personal injury plan**  
s 30 om [A2009-56](#) s 51

**Protocol about vocational rehabilitation**  
s 31 om [A2009-56](#) s 51

**Action against rehabilitation providers**  
div 5.5 hdg om [A2009-56](#) s 51

**Notice of proposed action on rehabilitation provider's approval**  
s 32 om [A2009-56](#) s 51

**Action other than revocation of rehabilitation provider's approval**  
s 33 am [A2008-37](#) amdt 1.569  
om [A2009-56](#) s 51

**Revocation of rehabilitation provider's approval**  
s 34 am [A2008-37](#) amdt 1.570  
om [A2009-56](#) s 51

**What if Minister decides to suspend or revoke rehabilitation provider's approval?**  
s 35 am [A2006-4](#) amdt 2.7; [A2008-37](#) amdt 1.571  
om [A2009-56](#) s 51

**Appointment of conciliators**  
s 36 am [A2006-4](#) amdt 2.8; [A2009-28](#) amdt 2.37; [A2014-18](#) amdt 3.118; [SL2014-36](#) s 4; [A2019-38](#) amdt 1.27

**When must conciliation be held?**  
s 38 am [SL2014-36](#) s 5

**Action by conciliator**  
s 39 sub [SL2014-36](#) s 6

**Particulars of matters in issue**  
s 40 am [A2008-28](#) amdt 3.176

**Who pays for conciliation?**  
s 45 sub [SL2002-29](#) s 7

**Review by Minister**  
s 46 am [SL2002-29](#) s 8  
exp 1 July 2006 (s 46 (3))

**Protocol about conciliation**  
s 47 am [SL2002-29](#) s 9; [A2012-21](#) amdt 3.218

**When may application for arbitration be filed?**  
s 48 sub [SL2014-36](#) s 7

**Commercial Arbitration Act not apply**  
s 49 hdg bracketed note exp 1 July 2004 (s 4 (3))  
s 49 am [A2017-7](#) amdt 1.16

**Representative committee already in existence**

s 50 hdg bracketed note exp 1 July 2004 (s 4 (3))

**When must Magistrates Court arbitrate matter?**

s 51 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Committee may refer questions of law**

s 52 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Powers of Magistrates Court on arbitration**

s 53 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Medical referees**

s 54 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Procedure on arbitration**

s 56 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Costs**

s 57 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 57 am [A2004-60](#) amdt 1.704**Claim against arbitration award**

s 58 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 58 am [A2004-60](#) amdt 1.705**Insurer to tell employer about certain obligations**s 62 sub [SL2002-29](#) s 10  
am [A2005-20](#) amdt 3.464; [A2006-4](#) amdt 2.9**Required information from employer in policy**s 62A ins [A2006-4](#) amdt 2.10  
(3)-(5) exp 1 July 2007 (s 62A (5) (LA s 88 declaration applies))**Application for approval of insurers**s 68 am [SL2005-43](#) s 4; [SL2011-27](#) s 4**Applications made but not decided before commencement of s 68 amendment**s 68A ins [SL2005-43](#) s 5  
exp 23 January 2006 (s 68A (4))**When must Minister not approve insurer?**s 69 am [SL2011-27](#) s 5**Information about ability to meet liabilities etc**s 72 am [SL2011-27](#) s 6**Insurer to provide information and pay costs of audit**s 73A ins [SL2011-27](#) s 7**Principles for working out premiums**s 75 am [A2016-25](#) amdt 1.16; ss renum R30 LA

## Endnotes

4 Amendment history

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### **Other conditions on insurers**

s 79 am [SL2011-27](#) s 8

### **Action other than revocation of insurer's approval**

s 81 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 81 am [A2006-4](#) amdt 2.11; [A2008-37](#) amdt 1.572; [A2014-18](#) amdt 3.119

### **Revocation of insurer's approval**

s 82 am [A2006-4](#) amdt 2.12; [A2008-37](#) amdt 1.573

### **What if Minister decides to suspend or revoke insurer's approval?**

s 83 am [A2006-4](#) amdt 2.13; [A2008-37](#) amdt 1.574

### **When does revocation make previous insurance policies not compulsory insurance policies?**

s 84 hdg bracketed note exp 1 July 2004 (s 4 (3))

### **What application for exemption must contain**

s 86 am [SL2002-29](#) s 11, s 12; [A2006-4](#) amdt 2.14; [A2009-28](#) amdt 2.32, amdt 2.33; [SL2011-27](#) s 9, s 10; [A2014-18](#) amdts 3.120-3.123

### **Minister may exempt**

s 87 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 87 am [SL2004-27](#) s 4, s 5; [A2009-28](#) amdt 2.34; [A2011-55](#) amdt 1.29

### **Self-insurer to provide information and pay costs of audit**

s 90A ins [SL2011-27](#) s 11

### **Notice of proposed action against self-insurer**

s 92 hdg bracketed note exp 1 July 2004 (s 4 (3))

### **Action other than revocation of self-insurer's exemption**

s 93 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 93 am [A2008-37](#) amdt 1.575; [A2014-18](#) amdt 3.124

### **Revocation of self-insurer's exemption**

s 94 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 94 am [A2008-37](#) amdt 1.576

### **What if Minister decides to suspend or revoke self-insurer's exemption?**

s 95 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 95 am [A2006-4](#) amdt 2.15; [A2008-37](#) amdt 1.577

### **Compliance and financial audits**

pt 10A hdg ins [SL2011-27](#) s 12

### **Compliance audits**

s 95A ins [SL2002-29](#) s 13  
exp 11 September 2003 (s 95A (3))  
ins [SL2011-27](#) s 12

**Financial audits**

s 95B ins [SL2011-27](#) s 12

**Appointment of auditors**

s 95C ins [SL2011-27](#) s 12

**Diseases related to employment**

s 96 hdg bracketed note exp 1 July 2004 (s 4 (3))

**Prescribed offences and fines**

s 97 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 97 am [SL2004-27](#) s 6

om [A2006-4](#) amdt 2.16

**Reviewable decision—Act, s 199 (b)**

s 98 am [A2006-4](#) amdt 2.17

sub [A2008-37](#) amdt 1.578; [A2009-56](#) s 52

**Notice of reviewable decision—Act, s 199A (1)**

s 98A ins [A2008-37](#) amdt 1.578

sub [A2009-56](#) s 52

**Internal review of certain decisions—Act, s 199B (1)**

s 98B ins [A2009-56](#) s 52

**Court approved termination**

s 99 hdg bracketed note exp 1 July 2004 (s 4 (3))

s 99 am [A2003-49](#) amdt 2.45; ss renum R5 LA (see [A2003-49](#) amdt 2.46; [A2006-4](#) amdt 2.18)

**Approved protocols about certain documents and information**

s 100 am [SL2011-27](#) s 13; [A2012-21](#) amdt 3.218

**Approved protocols about compulsory insurance**

s 100A renum as s 101

**Approved protocols for insurers**

s 101

**orig s 101**

om LA s 89 (3)

ins [SL2002-29](#) s 14

exp 1 July 2004 (s 102)

ins [A2004-39](#) amdt 1.49

exp 9 January 2009 (s 103)

pres s 101

(prev s 100A) ins [SL2010-17](#) s 4

sub and renum as s 101 [SL2011-27](#) s 14

am [A2012-21](#) amdt 3.218

## Endnotes

4 Amendment history

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### Modification of regulation

pt 12 hdg ins [SL2002-29](#) s 14  
exp 1 July 2004 (s 102)  
ins [A2004-39](#) amdt 1.49  
exp 9 January 2009 (s 103)

### Table 22

s 102 ins [SL2002-29](#) s 14  
exp 1 July 2004 (s 102)  
ins [A2004-39](#) amdt 1.49  
exp 9 January 2009 (s 103)

### Expiry of pt 12

s 103 ins [A2004-39](#) amdt 1.49  
exp 9 January 2009 (s 103)

### Transitional—Employment and Workplace Safety Legislation Amendment Act 2020

pt 13 hdg ins [SL2020-40](#) s 4  
exp on the day [A2020-30](#) pt 3 commences (s 106)

### Extension of exemption for self-insurers

s 104 ins [SL2020-40](#) s 4  
exp on the day [A2020-30](#) pt 3 commences (s 106)

### Extension of approval for approved insurers

s 105 ins [SL2020-40](#) s 4  
exp on the day [A2020-30](#) pt 3 commences (s 106)

### Expiry—pt 13

s 106 ins [SL2020-40](#) s 4  
exp on the day [A2020-30](#) pt 3 commences (s 106)

### Diseases related to employment

sch 1 am [A2016-27](#) s 25; items renum R32 LA  
sub [A2017-49](#) s 12  
am [A2018-32](#) amdt 3.57, amdt 3.58

### On-the-spot fines

sch 2 sub [SL2004-27](#) s 7  
om [A2006-4](#) amdt 2.19

### Reviewable decisions

sch 3 sub [A2008-37](#) amdt 1.579; [A2009-56](#) s 53; [A2011-22](#)  
amdt 1.498, amdt 1.499

### Modification of Act, chapter 16

sch 4 ins [SL2002-29](#) s 15  
exp 1 July 2004 (s 102)

**Dictionary**

dict

am [A2011-22](#) amdt 1.500; [SL2011-27](#) s 15; [A2014-18](#)  
amdt 3.125

def **approved insurer** om R8 LA

def **approved rehabilitation provider** om R8 LA

def **committee** om R8 LA

def **compulsory insurance policy** om R8 LA

def **injured worker** om R8 LA

def **medical referee** om R8 LA

def **OH&S Council** om [A2009-28](#) amdt 2.35

def **psychosocial factor** om [A2012-21](#) amdt 3.219

def **self-insurer** om R8 LA

def **weekly compensation** om R8 LA

def **workplace injury** om R8 LA

def **work health and safety council** ins [A2019-38](#) amdt 1.28

def **work safety council** ins [A2009-28](#) amdt 2.36

sub [A2011-55](#) amdt 1.30  
om [A2019-38](#) amdt 1.29

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	not amended	1 July 2002
2	<a href="#">SL2002-29</a>	29 October 2002
3	<a href="#">SL2002-29</a>	2 July 2003
4	<a href="#">SL2002-29</a>	12 September 2003
5	<a href="#">A2003-49</a>	5 April 2004
6	<a href="#">A2003-49</a>	2 July 2004
7	<a href="#">SL2004-27</a>	13 July 2004
8	<a href="#">A2004-60</a>	4 November 2004
9	<a href="#">A2004-60</a>	10 January 2005
10	<a href="#">A2005-20</a>	2 June 2005
11	<a href="#">A2005-20</a>	7 July 2005
12	<a href="#">SL2005-43</a>	23 December 2005
13	<a href="#">SL2005-43</a>	24 January 2006
14	<a href="#">A2006-4</a>	1 July 2006
15	<a href="#">A2006-4</a>	2 July 2006
16	<a href="#">A2006-4</a>	2 July 2007
17	<a href="#">A2008-28</a>	26 August 2008
18	<a href="#">A2008-37</a>	10 January 2009
19*	<a href="#">A2008-37</a>	2 February 2009
20	<a href="#">A2009-28</a>	1 October 2009
21	<a href="#">A2009-56</a>	17 December 2009
22	<a href="#">SL2010-17</a>	21 May 2010



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<b>Republication No</b>	<b>Amendments to</b>	<b>Republication date</b>
23	<a href="#">SL2010-17</a>	1 July 2010
24	<a href="#">A2011-22</a>	1 July 2011
25	<a href="#">SL2011-27</a>	2 September 2011
26	<a href="#">A2011-55</a>	1 January 2012
27	<a href="#">A2012-21</a>	5 June 2012
28*	<a href="#">A2014-18</a>	10 June 2014
29	<a href="#">SL2014-36</a>	20 December 2014
30	<a href="#">A2016-25</a>	13 May 2016
31	<a href="#">SL2016-20</a>	1 November 2016
32	<a href="#">A2017-7</a>	1 July 2017
33	<a href="#">A2017-49</a>	13 December 2017
34	<a href="#">A2018-32</a>	21 December 2018
35	<a href="#">A2019-38</a>	30 April 2020

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