

2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Industrial Relations)

# Workers Compensation Amendment Bill 2009

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(As presented)

(Minister for Industrial Relations)

# **Workers Compensation Amendment Bill 2009**

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## **A Bill for**

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Workers Compensation Amendment Act 2009*.

4 **2 Commencement**

5 (1) The following provisions commence on 1 July 2010:

- 6 • section 4  
7 • section 5  
8 • section 9  
9 • section 50  
10 • section 51.

11 *Note* The naming and commencement provisions automatically commence on  
12 the notification day (see Legislation Act, s 75 (1)).

13 (2) The remaining provisions commence on the day after this Act's  
14 notification day.

1 **Part 2** **Workers Compensation Act 1951**

2 **3** **Legislation amended—pt 2**

3 This part amends the *Workers Compensation Act 1951*.

4 **4** **New section 7A**

5 *in chapter 2, insert*

6 **7A** **Meaning of *total wages***

7 (1) In this Act:

8 *total wages* means total wages worked out as prescribed by  
9 regulation.

10 (2) The Legislation Act, section 47 (3) does not apply to a regulation  
11 under this section.

12 **5** **Who is a *worker*?**  
13 **Section 8 (1)**

14 *substitute*

15 (1) In this Act (subject to this chapter):

16 *worker* means an individual who—

17 (a) works under a contract of service, whether the contract is  
18 express or implied, oral or written; or

19 (b) works under a contract, or at piecework rates, for labour only  
20 or substantially for labour only; or

- 1 (c) works for another person under a contract (whether or not a  
2 contract of service) unless—
- 3 (i) the individual—
- 4 (A) is paid to achieve a stated outcome; and
- 5 (B) has to supply the plant and equipment or tools of  
6 trade needed to carry out the work; and
- 7 (C) is, or would be, liable for the cost of rectifying any  
8 defect in the work carried out; or
- 9 (ii) a personal services business determination is in effect for  
10 the person carrying out the work under the *Income Tax*  
11 *Assessment Act 1997* (Cwlth), section 87-60.

12 **6 Personal injury plan for worker with significant injury**  
13 **Section 97 (2)**

14 *substitute*

- 15 (2) The personal injury plan must be established in agreement with the  
16 employer (unless the employer is a self-insurer or a non-business  
17 employer) and the injured worker, to the maximum extent that their  
18 cooperation and participation allow.

19 **7 New section 99A**

20 *insert*

21 **99A Appointment of approved rehabilitation provider under**  
22 **personal injury plan**

- 23 (1) The insurer may appoint an approved rehabilitation provider for an  
24 injured worker as part of the worker's personal injury plan.



- 1 (2) However, the insurer must appoint an approved rehabilitation  
2 provider for the injured worker as part of the personal injury plan if  
3 the worker has not returned to the worker's pre-injury duties and  
4 pre-injury working hours, within 4 weeks after the day the worker  
5 gave notice of the injury.

6 **8 Nomination of doctor for personal injury plan**  
7 **Section 102 (4)**

8 *substitute*

- 9 (4) The worker must authorise the worker's nominated treating doctor  
10 to provide relevant information to—  
11 (a) the insurer or employer for the worker's personal injury plan;  
12 or  
13 (b) a person who requires the information in relation to the  
14 management of the worker's claim for compensation; or  
15 (c) the chief executive in relation to the performance of an  
16 approved rehabilitation provider.

17 **9 Meaning of *approved rehabilitation provider* etc**  
18 **New section 139 (4)**

19 *insert*

- 20 (4) The Legislation Act, section 47 (3) does not apply to a regulation  
21 under this section.

22 **10 Meaning of *compulsory insurance policy***  
23 **Section 144 (2)**

24 *omit*

25 section 147 (7) (Compulsory insurance—employers)

26 *substitute*

27 section 147A (7) (Compulsory insurance—offences)

1 **11 Section 147**2 *substitute*3 **147 Compulsory insurance—employers**4 (1) This section applies if an employer does not hold a compulsory  
5 insurance policy issued by an approved insurer.

6 (2) However, this section does not apply to an employer if—

7 (a) the employer is a self-insurer; or

8 (b) liability to pay compensation to a worker would be shared  
9 between the employer and either another employer or other  
10 employers and any of the other employers maintains a joint  
11 compulsory insurance policy for the joint liability of all the  
12 employers; or13 (c) the employer provides evidence that a State was the Territory  
14 or State of connection for the employment under the law of a  
15 State corresponding to part 4.2A (Employment connection with  
16 ACT or State); or17 (d) the employer had insurance, or was registered, as required  
18 under the law of the State in relation to liability for workers  
19 compensation under the law of the State.20 *Note* **State** includes the Northern Territory (see Legislation Act, dict, pt 1).21 (3) The chief executive may give the employer a notice (a **default**  
22 **notice**) requiring the employer to obtain a compulsory insurance  
23 policy within 10 business days after the day the notice is given to  
24 the employer (the **compliance period**).

- 1 (4) If, at the end of the compliance period, the employer does not hold a  
2 compulsory insurance policy issued by an approved insurer, the  
3 chief executive may give the employer another notice (a **2nd default**  
4 **notice**) requiring the employer to obtain a compulsory insurance  
5 policy within 10 business days after the day the notice is given to  
6 the employer (the **2nd compliance period**).
- 7 (5) If, at the end of the 2nd compliance period, the employer does not  
8 hold a compulsory insurance policy issued by an approved insurer,  
9 the chief executive may give the employer a notice (a **cease**  
10 **business notice**) directing the employer to stop conducting the  
11 employer's business.
- 12 (6) A cease business notice takes effect 5 business days after the day the  
13 notice is given to the employer.

14 **147A Compulsory insurance—offences**

- 15 (1) This section applies to an employer to whom section 147 applies.
- 16 (2) An employer commits an offence if the employer fails to maintain a  
17 compulsory insurance policy with an approved insurer.
- 18 Maximum penalty: 50 penalty units.
- 19 (3) An employer commits an offence if—
- 20 (a) the employer is given a default notice; and
- 21 (b) at the end of the compliance period, the employer does not  
22 hold a compulsory insurance policy issued by an approved  
23 insurer.
- 24 Maximum penalty: 50 penalty units.
- 25 (4) An employer commits an offence if—
- 26 (a) the employer is given a 2nd default notice; and

1 (b) at the end of the 2nd compliance period, the employer does not  
2 hold a compulsory insurance policy issued by an approved  
3 insurer.

4 Maximum penalty: 250 penalty units.

5 (5) An employer commits an offence if—

6 (a) the employer is given a cease business order; and

7 (b) the employer does not cease to conduct the employer's  
8 business.

9 Maximum penalty: 250 penalty units.

10 (6) An offence against subsection (2) or (3) is a strict liability offence.

11 (7) A cover note may be a compulsory insurance policy only if it is in  
12 force for not longer than 30 days and—

13 (a) the employer maintained a compulsory insurance policy (other  
14 than a cover note) immediately before maintaining the cover  
15 note; or

16 (b) the employer was not an employer immediately before  
17 beginning to maintain the cover note; or

18 (c) the employer was a self-insurer immediately before beginning  
19 to maintain the cover note.

20 (8) In this section:

21 *2nd compliance period*—see section 147 (4).

22 *2nd default notice*—see section 147 (4).

23 *cease business notice*—see section 147 (5).

24 *compliance period*—see section 147 (3).

25 *default notice*—see section 147 (3).

- 1 **147B Compulsory insurance policy—minimum premium**  
2 **following default notice**
- 3 (1) This section applies if an employer—
- 4 (a) receives a default notice, or a 2nd default notice, under  
5 section 147; and
- 6 (b) subsequently obtains a compulsory insurance policy issued by  
7 an approved insurer.
- 8 (2) The employer must pay to the insurer at least 30% of the premium  
9 payable for the policy at the time the policy is issued.

10 **12 Section 149**

11 *substitute*

- 12 **149 Failure to maintain compulsory insurance policy—chief**  
13 **executive entitled to recovery amount**
- 14 (1) This section applies if an employer fails to maintain a compulsory  
15 insurance policy with an approved insurer.
- 16 (2) However, this section does not apply if—
- 17 (a) the employer provides evidence that a State was the Territory  
18 or State of connection for the employment under the law of a  
19 State corresponding to part 4.2A (Employment connection with  
20 ACT or State); or
- 21 (b) the employer had insurance, or was registered, as required  
22 under a law of the State in relation to liability for workers  
23 compensation under the law of the State.
- 24 *Note* **State** includes the Northern Territory (see Legislation Act, dict, pt 1).

- 1           (3) The chief executive must determine the amount of the premium (the  
2           *avoided premium*) that would have been payable to an approved  
3           insurer if the employer had maintained a compulsory insurance  
4           policy for the period that the employer was not insured (up to a  
5           maximum of 5 years).
- 6           (4) The chief executive may determine an amount (a *recovery amount*)  
7           for the employer equal to—
- 8           (a) double the avoided premium; or
- 9           (b) an amount less than double the avoided premium, having  
10          regard to the following:
- 11               (i) whether payment of the recovery amount would cause the  
12               employer financial hardship;
- 13               (ii) whether payment of the recovery amount would cause the  
14               employer to stop conducting the employer's business in  
15               the ACT;
- 16               (iii) whether the chief executive is likely to recover the  
17               amount;
- 18               (iv) the employer's history of compliance with its obligations  
19               under this Act;
- 20               (v) whether the employer's failure to maintain a compulsory  
21               insurance policy was based on independent advice;
- 22               (vi) steps the employer has taken to obtain a compulsory  
23               insurance policy;
- 24               (vii) any other material provided by the employer;
- 25               (viii) any other factor the chief executive considers relevant.

26           *Note*     The chief executive's determination under s(4) is an internally  
27           reviewable decision (see *Workers Compensation Regulation 2002*,  
28           sch 3, pt 3.2).

- 1 (5) If the chief executive determines a recovery amount for an  
2 employer, the chief executive must give the employer written notice  
3 of—  
4 (a) the avoided premium; and  
5 (b) the recovery amount.  
6 (6) The chief executive may recover the recovery amount as a debt  
7 owing by the employer to the DI fund.  
8 (7) In this section:  
9 *employer* does not include a self-insurer or non-business employer.

10 **13 Self-insurers**  
11 **Section 151 (1)**

- 12 *omit*  
13 section 147 (1) (Compulsory insurance—employers)  
14 *substitute*  
15 section 147A (2) (Compulsory insurance—offences)

16 **14 Compulsory insurance—insurers**  
17 **Section 152 (1)**

- 18 *omit*  
19 section 147 (1) (Compulsory insurance—employers)  
20 *substitute*  
21 section 147A (2) (Compulsory insurance—offences)

1 **15 Section 152 (2)**

2 *omit*

3 section 147 (1)

4 *substitute*

5 section 147A (2)

6 **16 Information for insurers on application for issue or**  
7 **renewal of policies**  
8 **Section 155 (2) and (3)**

9 *substitute*

10 (2) The employer must give the insurer, with the application, a  
11 statement of the employer's estimate for the proposed insurance  
12 period.

13 Maximum penalty: 250 penalty units, imprisonment for 2 years or  
14 both.

15 *Note* One or more fault elements apply to this offence (see Criminal Code,  
16 s 22).

17 (3) The employer must give the insurer, with the application, a  
18 statement of the employer's estimate for the proposed insurance  
19 period.

20 Maximum penalty: 50 penalty units.

21 (3A) A statement of the employer's estimate may be signed for the  
22 employer by any of the following:

23 (a) if the employer is a corporation—an officer of the corporation  
24 authorised to sign the statement;

25 (b) in any other case—an owner of the employer's business.

26 **17 Section 155 (6), note**

27 *omit*



1 **18 Information for insurers after renewal of policies**  
2 **Section 156 (2) and (3)**

3 *omit*

4 certificate from a recognised auditor stating

5 *substitute*

6 statement of

7 **19 Section 156 (3), note**

8 *omit*

9 **20 New section 156 (3A)**

10 *insert*

11 (3A) A statement made under this section may be signed for the employer  
12 by any of the following:

13 (a) if the employer is a corporation—an officer of the corporation  
14 authorised to sign the statement;

15 (b) in any other case—an owner of the employer's business.

16 **21 Information for insurers after end or cancellation of**  
17 **policies**  
18 **Section 157 (2)**

19 *omit*

20 certificate from a recognised auditor stating

21 *substitute*

22 statement of

23 **22 Section 157 (2), note**

24 *omit*

- 1 **23 New section 157 (2A)**
- 2 *insert*
- 3 (2A) A statement made under this section may be signed for the employer
- 4 by any of the following:
- 5 (a) if the employer is a corporation—an officer of the corporation
- 6 authorised to sign the statement;
- 7 (b) in any other case—an owner of the employer’s business.
- 8 **24 Information for new insurers after change of insurers**
- 9 **Section 158 (2) and (3)**
- 10 *omit*
- 11 certificate
- 12 *substitute*
- 13 statement
- 14 **25 Six-monthly information for insurers**
- 15 **Section 159 (1)**
- 16 *omit*
- 17 statutory declaration
- 18 *substitute*
- 19 statement
- 20 **26 Section 159 (1), note**
- 21 *omit*

**27 New section 159 (2A)**

*insert*

(2A) A statement made under this section may be signed for the employer by any of the following:

(a) if the employer is a corporation—an officer of the corporation authorised to sign the statement;

(b) in any other case—an owner of the employer's business.

**28 Section 162**

*substitute*

**162 False information causing lower premium**

(1) An employer commits an offence if—

(a) the employer gives information in a relevant statement to an approved insurer; and

(b) the employer does so knowing that the information—

(i) is false or misleading; or

(ii) omits anything without which the information is misleading.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

(2) An employer commits an offence if—

(a) the employer gives information in a relevant statement to an approved insurer; and

(b) the employer does so knowing that the information—

(i) is false or misleading; or

- 1 (ii) omits anything without which the information is  
2 misleading; and
- 3 (c) the approved insurer relies on the information to work out the  
4 premium for a compulsory insurance policy for the person; and
- 5 (d) the premium worked out by the approved insurer for the policy  
6 is less than the premium would be if the person gave the  
7 correct information.

8 Maximum penalty: 100 penalty units, imprisonment for 1 year or  
9 both.

10 (3) In this section:

11 *relevant statement* means a statement provided by an employer for  
12 any of the following provisions:

- 13 (a) section 155 (2) (Information for insurers on application for  
14 issue or renewal of policies);
- 15 (b) section 156 (2) and (3) (Information for insurers after renewal  
16 of policies);
- 17 (c) section 157 (2) (Information for insurers after end or  
18 cancellation of policies);
- 19 (d) section 159 (1) (Six-monthly information for insurers).

20 **162A Avoiding payment of premium—chief executive entitled**  
21 **to recovery amount**

22 (1) This section applies if—

- 23 (a) an employer has given an approved insurer a relevant  
24 statement for a period, stating an amount of wages the  
25 employer has paid for the period; and
- 26 (b) the amount of wages the employer has paid for the period is at  
27 least 10% more than the amount stated in the relevant  
28 statement.

- 1           (2) The chief executive must determine the amount of the avoided  
2           premium for each period of insurance to which a relevant statement  
3           mentioned in subsection (1) applies (up to a maximum of 5 years).
- 4           (3) The chief executive may determine an amount (a *recovery amount*)  
5           for the employer equal to—
- 6           (a) double the avoided premium; or
- 7           (b) an amount less than double the avoided premium, having  
8           regard to the following:
- 9               (i) whether payment of the recovery amount would cause the  
10              employer financial hardship;
- 11              (ii) whether payment of the recovery amount would cause the  
12              employer to stop conducting the employer's business in  
13              the ACT;
- 14              (iii) whether the chief executive is likely to recover the  
15              recovery amount;
- 16              (iv) the employer's history of compliance with its obligations  
17              under this Act;
- 18              (v) whether the employer's behaviour in completing the  
19              relevant statement was based on independent advice;
- 20              (vi) steps the employer has taken to obtain a compulsory  
21              insurance policy;
- 22              (vii) any other material provided by the employer;
- 23              (viii) any other factors the chief executive considers relevant.

24           *Note*     The chief executive's determination under s(3) is an internally  
25           reviewable decision (see *Workers Compensation Regulation 2002*,  
26           sch 3, pt 3.2).

- 1 (4) If the chief executive determines a recovery amount for an  
2 employer, the chief executive must give the employer written notice  
3 of—
- 4 (a) the avoided premium; and  
5 (b) the recovery amount.
- 6 (5) The chief executive may recover the recovery amount as a debt  
7 owing by the employer to the DI fund.
- 8 (6) In this section:
- 9 *avoided premium*, for a period of insurance, means an amount equal  
10 to the difference between—
- 11 (a) the premium worked out for the period using the information  
12 given by the person; and
- 13 (b) the premium worked out for the period using the correct  
14 information.
- 15 *relevant statement* means a statement provided by an employer for  
16 any of the following provisions:
- 17 (a) section 156 (2) and (3) (Information for insurers after renewal  
18 of policies);
- 19 (b) section 157 (2) (Information for insurers after end or  
20 cancellation of policies).
- 21 **162B Cease business order**
- 22 (1) This section applies if—
- 23 (a) a court or tribunal has entered a judgment in favour of the chief  
24 executive against an employer for an amount under section 149  
25 (Failure to maintain compulsory insurance policy—chief  
26 executive entitled to recovery amount) or section 162A  
27 (Avoiding payment of premium—chief executive entitled to  
28 recovery amount); and

- 1 (b) the employer has not paid the judgment debt within 28 days  
2 after the day the judgment is entered.
- 3 (2) The chief executive may, in addition to any other right to enforce  
4 the judgment, apply to the court or tribunal for an order (a *cease*  
5 *business order*) directing the employer to cease conducting the  
6 employer's business until the judgment is paid.
- 7 (3) A cease business order takes effect 5 business days after the day the  
8 order is made.

9 **29 Employment after 2nd offence**  
10 **Section 163 (1), 1st dot point**

11 *substitute*

- 12 • section 147A (Compulsory insurance—offences)

13 **30 Purpose of DI fund**  
14 **Section 166A (2), new note**

15 *insert*

16 *Note* An injured worker who was a director of the employer at the time of the  
17 injury may not make a claim against the fund (see s 170 (2)).

18 **31 Section 166A (4), new note**

19 *insert*

20 *Note* An injured worker who was a director of the employer at the time of the  
21 injury may not make a claim against the fund (see s 170 (2)).

1 **32 Who may make claim for payment**  
2 **New section 170 (2)**

3 *insert*

4 (2) However, a person may not make a claim for payment if, at the time  
5 of the injury—

6 (a) the injured worker was a director of the worker's employer;  
7 and

8 (b) the employer did not hold a compulsory insurance policy that  
9 applies to the injured worker for the injury.

10 **33 Provision of information to inspectors**  
11 **Section 190 (1)**

12 *omit*

13 within 28 days

14 *substitute*

15 not later than 3 days

16 **34 Section 190 (1) (a)**

17 *omit*

18 certificate from a recognised auditor stating

19 *substitute*

20 statement of



1 **35 Section 190 (1) (b)**

2 *omit*

3 statutory declaration

4 *substitute*

5 statement

6 **36 Section 190 (2)**

7 *omit*

8 in the time and way stated in the notice

9 *substitute*

10 not later than 3 days after the day the notice is given to the employer

11 **37 Section 190 (3) note**

12 *omit*

13 **38 New section 190 (3A)**

14 *insert*

15 (3A) A statement made under this section may be signed for the employer  
16 by any of the following:

17 (a) if the employer is a corporation—an officer of the corporation  
18 authorised to sign the statement;

19 (b) in any other case—an owner of the employer's business.

20 **39 Section 190 (5), new definitions**

21 *insert*

22 *certificate of currency*—see section 160.

- 1           ***related information*** includes any of the following records:
- 2           (a) an injury notice under section 93;
- 3           (b) a statement of the employer's estimate under section 155;
- 4           (c) a statement of total wages under section 156;
- 5           (d) a statement of total wages under section 157;
- 6           (e) a statement of total wages under section 158;
- 7           (f) a statement under section 159;
- 8           (g) a certificate of currency issued by an insurer to the employer;
- 9           (h) wages and earnings paid by the employer;
- 10          (i) invoices and information related to the invoices given to the
- 11          employer by a sub-contractor;
- 12          (j) a certificate of currency in relation to a contractor;
- 13          (k) material used by the employer to work out the wages for a
- 14          statement of total wages;
- 15          (l) business records including business activity statements,
- 16          minutes of board meetings, financial statements and
- 17          agreements made with entities related to the employer;
- 18          (m) any record the employer is required to maintain under this Act.

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**40 Chapter 12***substitute***Chapter 12 Notification and review of decisions****198 Definitions—ch 12**

In this chapter:

*decision-maker*—see section 199A (1).*internally reviewable decision*—see section 199B (1).*internal reviewer*—see section 199B (3).*reviewable decision*—see section 199.**199 Application—ch 12**This chapter applies to a decision (a *reviewable decision*)—

(a) made by the Minister or chief executive under this Act; and

(b) prescribed by regulation to be a reviewable decision.

**199A Notice of reviewable decisions**

- (1) If the Minister or chief executive (the *decision-maker*) makes a reviewable decision, the decision-maker must give written notice of the decision to each entity prescribed by regulation for the decision.

*Note 1* The decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

- 1 (2) In particular, the notice must tell the person—
- 2 (a) whether the person has the right to apply for internal review of
- 3 the decision or the right to apply to the ACAT for review of the
- 4 decision, and how the application must be made; and
- 5 (b) if the person has the right to apply for internal review of the
- 6 decision—that the person has the right to apply to the ACAT
- 7 for review of the internal review decision if the person is
- 8 dissatisfied with that decision; and
- 9 (c) about the options available under other ACT laws to have the
- 10 decision reviewed by a court or the ombudsman.

11 **199B Internal review of certain decisions**

- 12 (1) This section applies if a regulation declares that a reviewable
- 13 decision is a decision that is subject to internal review (an *internally*
- 14 *reviewable decision*).
- 15 (2) A person whose interests are affected by an internally reviewable
- 16 decision may apply in writing to the chief executive for internal
- 17 review of the decision.
- 18 (3) The chief executive must arrange for someone else (the *internal*
- 19 *reviewer*) to review the decision.
- 20 (4) However, this section does not apply to a reviewable decision made
- 21 personally by the Minister or the chief executive.

22 *Note* Section 199E (b) provides for review of decisions exempt from internal

23 review by the ACAT.

24 **199C Applications for internal review**

- 25 (1) An application for internal review under section 199B must be made
- 26 within—
- 27 (a) 28 days after the day the applicant receives written notice of
- 28 the decision under section 199A; or

- 1 (b) any longer period allowed by the internal reviewer, whether  
2 before or after the end of the 28-day period.
- 3 (2) The application must set out the grounds on which internal review  
4 of the decision is sought.
- 5 (3) The making of the application for internal review of the decision  
6 does not affect the operation of the decision.

7 **199D Internal review**

- 8 (1) The internal reviewer must review the internally reviewable  
9 decision, and confirm, vary or revoke the decision, within 28 days  
10 after the decision-maker receives the application for internal review  
11 of the decision.
- 12 (2) If the decision is not varied or revoked within the 28-day period, the  
13 decision is taken to have been confirmed by the internal reviewer.
- 14 (3) As soon as practicable after reviewing the decision, the internal  
15 reviewer must give written notice of the decision on the internal  
16 review to the applicant.

17 **199E Review of decisions by ACAT**

18 A person may apply to the ACAT for review of—

- 19 (a) a decision made by an internal reviewer; or  
20 (b) a reviewable decision that is not an internally reviewable  
21 decision.

1 **41 New section 200A**

2 *insert*

3 **200A Record keeping**

4 (1) An employer must keep records of the following for 5 years after  
5 the day the record is made:

- 6 (a) an injury notice under section 93;
- 7 (b) a statement of the employer's estimate under section 155;
- 8 (c) a statement of total wages under section 156;
- 9 (d) a statement of total wages under section 157;
- 10 (e) a statement of total wages under section 158;
- 11 (f) a statement under section 159;
- 12 (g) a certificate of currency issued by an insurer to the employer;
- 13 (h) wages and earnings paid by the employer;
- 14 (i) invoices and related information given to the employer by a  
15 sub-contractor;
- 16 (j) a certificate of currency in relation to a contractor;
- 17 (k) material used by the employer to work out the wages for a  
18 statement of total wages;
- 19 (l) any record the employer is required to maintain under this Act.

20 Maximum penalty: 100 penalty units.

21 (2) The chief executive, or the employer's insurer, may request the  
22 employer to make available any of the records mentioned in  
23 subsection (1).

1 (3) The employer must make the records available, not later than 3 days  
2 after a request is made, to the person who requested the records.

3 Maximum penalty: 50 penalty units.

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

5 (5) In this section:

6 *certificate of currency*—see section 160.

7 **42 New section 201A**

8 *insert*

9 **201A Civil liability of executive officers**

10 (1) This section applies if the chief executive is entitled to recover an  
11 amount from a corporation under section 149 (Failure to maintain  
12 compulsory insurance policy—chief executive entitled to recovery  
13 amount) or section 162A (Avoiding payment of premium—chief  
14 executive entitled to recovery amount).

15 (2) An amount is not recoverable from a corporation if the chief  
16 executive is satisfied that the amount is unlikely to be recovered by  
17 reasonable recovery efforts because the corporation is being wound  
18 up or is unable to pay its debts or otherwise.

19 (3) The chief executive may recover the amount from an executive  
20 officer if the officer was a culpable executive officer at the relevant  
21 time.

22 (4) An executive officer is culpable at the relevant time if the officer  
23 was an executive officer of the corporation at any time during which  
24 the corporation committed the offence to which the entitlement to  
25 recover relates.

26 (5) However, an executive officer is culpable only if—

27 (a) the officer knew, or ought reasonably to have known, that the  
28 offence was committed; or

- 1 (b) the officer was in a position to influence the corporation's  
2 conduct in relation to the offence; or
- 3 (c) the officer, being in a position to influence the conduct of the  
4 corporation, failed to exercise appropriate diligence to prevent  
5 the corporation committing the offence.
- 6 (6) If more than 1 executive officer of a corporation is culpable, the  
7 culpable executive officers are jointly and severally liable for any  
8 amount the chief executive may recover under this section.
- 9 (7) If an amount is recovered from an executive officer under this  
10 section, the executive officer may recover the amount from the  
11 officer's corporation.
- 12 (8) This section does not apply to an amount the chief executive is  
13 entitled to recover from a corporation in relation to an offence that  
14 the corporation committed before the commencement of this  
15 section.

16 **43 Section 203 (6), definition of *defined provision*, new**  
17 **paragraph (a) (xi)**

18 *substitute*

19 (xi) section 162 (False information causing lower premium);

20 **44 Membership of committee**  
21 **Schedule 3, section 3.4 (1) (b)**

22 *substitute*

23 (b) the chief executive; and

24 **45 Schedule 3, section 3.7**

25 *substitute*

26 **3.7 Committee chair**

27 The committee chair is the chief executive.



1 **46 Dictionary, new definitions**

2 *insert*

3 *decision-maker*, for chapter 12 (Notification and review of  
4 decisions)—see section 199A (1).

5 *internally reviewable decision*, for chapter 12 (Notification and  
6 review of decisions)—see section 199B (1).

7 *internal reviewer*, for chapter 12 (Notification and review of  
8 decisions)—see section 199B (3).

9 **47 Dictionary, definitions of *recognised auditor* and  
10 *reviewable decision***

11 *substitute*

12 *recognised auditor*, for the DI fund, means an auditor who is not  
13 employed or engaged by the DI fund.

14 *reviewable decision*, for chapter 12 (Notification and review of  
15 decisions)—see section 199.

16 **48 Dictionary, new definition of *total wages***

17 *insert*

18 *total wages*—see section 7A.

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

3 **49** **Legislation amended—pt 3**

4 This part amends the *Workers Compensation Regulation 2002*.

5 **50** **New section 8A**

6 *in part 2, insert*

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

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

10 *Note* The *ACT Wages and Earning Guide* is accessible at  
11 [www.ors.act.gov.au/workcover](http://www.ors.act.gov.au/workcover).

12 **51** **Part 5**

13 *substitute*

14 **Part 5** **Rehabilitation providers**

15 **16** **Minister may approve rehabilitation providers**

16 (1) The Minister may, in writing, approve a person as a rehabilitation  
17 provider.

18 (2) The Minister may approve a rehabilitation provider for not longer  
19 than 3 years.

1    **17**            **Procedure for approval of rehabilitation provider**

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

6                    *Note*        The *Guide—Nationally Consistent Approval Framework for*  
7                    *Workplace Rehabilitation Providers* is accessible at  
8                    www.hwca.org.au/NationalGuide.php.

9    **52**            **Sections 98 and 98A**

10                   *substitute*

11    **98**            **Reviewable decision—Act, s 199 (b)**

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

15    **98A**           **Notice of reviewable decision—Act, s 199A (1)**

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

18    **98B**           **Internal review of certain decisions—Act, s 199B (1)**

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

1 **53 Schedule 3**

2 *substitute*

3 **Schedule 3 Reviewable decisions**

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

5 **Part 3.1 Reviewable decisions**

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
1	Act, 18 (3)	refuse to exempt principal from s 18 (2) (which makes commercial volunteers workers)	applicant for exemption	Minister
2	Act, 145 (1)	refuse to approve insurer	applicant for approval	Minister
3	Act, 149 (4)	determine recovery amount	employer	chief executive
4	Act, 162A (3)	determine recovery amount	employer	chief executive
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

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
7	28	impose condition on rehabilitation provider's approval	rehabilitation provider	Minister
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

column 1 item	column 2 section	column 3 decision	column 4 entity	column 5 decision- maker
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

## 1 Part 3.2 Internally reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 decision-maker
1	Act, 149 (4)	determine recovery amount	chief executive
2	Act, 162A (3)	determine recovery amount	chief executive

## 2 Part 4 Taxation Administration Act 1999

### 3 54 Legislation amended—pt 4

4 This part amends the *Taxation Administration Act 1999*.

### 5 55 Other permitted disclosures 6 Section 97 (d) (iv)

7 *substitute*

8 (iv) for the *Workers Compensation Act 1951*—the DI fund  
9 manager and the chief executive for the *Workers*  
10 *Compensation Act 1951*;

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2009.

**2 Notification**

Notified under the Legislation Act on 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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