



TASMANIA

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**WORKERS COMPENSATION AMENDMENT ACT 1992**

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**No. 50 of 1992**

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## WORKERS COMPENSATION AMENDMENT ACT 1992

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No. 50 of 1992

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AN ACT to amend the *Workers Compensation Act 1988*

[Royal Assent 21 December 1992]

**B**E it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

### Short title

1—This Act may be cited as the *Workers Compensation Amendment Act 1992*.

### Commencement

2—This Act commences on the day on which it receives the Royal Assent.

**Principal Act**

3—In this Act, the *Workers Compensation Act 1988\** is referred to as the Principal Act.

**Section 3 amended (Interpretation)**

4—Section 3 (1) of the Principal Act is amended by inserting before the definition of “authorized officer” the following definitions:—

“**applicant**” means a person who has referred a claim for compensation to the Commissioner under this Act;

“**application**” means an application referred to in section 42 (2);

**Section 7A inserted**

5—After section 7 of the Principal Act, the following section is inserted in Part I:—

**Part V to apply to all claims for compensation, &c.,  
referred to Commissioner**

7A—Where in this Act it is provided that any claim for compensation or any dispute relating to a claim for compensation may or must be referred to the Commissioner by any person, a person who refers a claim for compensation or a dispute relating to such a claim to the Commissioner in pursuance of such a provision must do so in accordance with section 42 and the provisions of Part V apply to the determination, resolution or review of the claim for compensation or dispute.

**Section 41 repealed**

6—Section 41 of the Principal Act is repealed.

**Section 42 amended (Reference of claims for compensation to Commissioner)**

7—Section 42 (1) of the Principal Act is amended by omitting “which has not been settled by agreement between the parties”.

\* No. 4 of 1988. Amended by No. 39 of 1988, No. 13 of 1989, No. 5 of 1990 and Nos. 26 and 46 of 1991.

**Part VII, Division 1: Division heading amended**

8—The heading to Division 1 of Part VII is amended by inserting “*and other benefits*” after “*payments*”.

**Section 81 substituted and sections 81A and 81B inserted**

9—Section 81 of the Principal Act is repealed and the following sections are substituted:—

**Commencement of weekly payments**

81—(1) Where an employer has received a claim for compensation in relation to an injury to a worker employed by the employer and the worker’s first pay day after receipt of that claim—

(a) is not later than 14 days after the receipt of that claim, the employer must—

- (i) if it is reasonably practicable to do so, commence making weekly payments to the worker on the first pay day; or
- (ii) in any other case, commence making weekly payments to the worker not later than 14 days after receipt by the employer of the worker’s claim for compensation; or

(b) is later than 14 days after the receipt of that claim, the employer must commence making weekly payments of compensation on that pay day.

(2) Subject to subsection (3), an employer who fails to comply with subsection (1) is guilty of an offence.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.

(3) This section does not apply to an employer who, in accordance with section 81A (1), disputes liability to pay compensation by way of weekly payments.

(4) In this section, “**pay day**” means the day on which the worker would normally receive salary or wages from the worker’s employer.

**Disputes of liability for weekly payments and other benefits**

81A—(1) An employer who disputes liability—

(a) to pay compensation by way of weekly payments for an injury referred to in section 81 (1); or

(b) to pay the cost of any benefits payable under Division 2 of Part VI in respect of the injury—

must, within 14 days of receiving the claim for compensation in respect of the injury to the worker—

(c) serve the worker with written notice that the employer disputes liability—

(i) to pay compensation by way of weekly payments and must inform the worker of the reasons for disputing liability; or

(ii) to pay any benefits payable under Division 2 of Part VI in respect of the injury and must inform the worker of the reasons for disputing liability; and

(d) refer the matter to the Commissioner.

(2) An employer who refers a matter to the Commissioner under subsection (1) must, at the time of referring the matter to the Commissioner, advise the Commissioner in writing whether or not weekly payments are being made to the worker pending determination of the matter by the Commissioner.

(3) Where a matter is referred to the Commissioner under subsection (1), the Commissioner must—

(a) if the Commissioner considers that weekly payments should be made, order the employer to make weekly payments from such date as the Commissioner determines; or

(b) if the Commissioner considers that the cost of any benefits payable under Division 2 of Part VI in respect of the injury to the worker should be paid, order the employer to pay the cost of the benefits from such date as the Commissioner determines; or

- (c) if the Commissioner considers that a genuine dispute exists concerning the liability of the employer to pay compensation by way of weekly payments, determine that compensation is not to be paid by the employer; or
- (d) if the Commissioner considers that a genuine dispute exists concerning the liability of the employer to pay the cost of any benefits payable under Division 2 of Part VI in respect of the injury to the worker, determine that the cost of the benefits is not to be paid by the employer.

(4) The fact that the Commissioner has determined under subsection (3) that weekly payments should be made, or that the cost of any benefits payable under Division 2 of Part VI in respect of the injury to the worker should be paid, is not to be taken into account by the Commissioner in any other proceedings under this Act.

(5) Notwithstanding that liability has not been disputed in accordance with subsection (1), an employer who wishes to dispute liability to continue to pay compensation by way of weekly payments for an injury referred to in section 81 (1) or to pay the cost of any benefits payable under Division 2 of Part VI in respect of the injury may, at any time after the expiration of the period referred to in subsection (1) of this section, refer the matter to the Commissioner.

### **Payment of weekly payments**

81B—Weekly payments payable to a worker under this Act are payable on the days on which, and at the intervals, the worker is normally paid salary or wages by the worker's employer or, if the worker is no longer employed by that employer, on the days on which, and at the intervals, the worker would normally have been paid salary or wages by the employer if the worker had continued in that employment.

**Further amendments to Principal Act**

**10**—The Principal Act is further amended by omitting “, as prescribed,” from the following provisions:—

Section 3 (6), section 38 (3), section 39 (5),  
section 39 (6), section 40 (3), section 68 (1),  
section 69 (8), section 71 (5), section 71 (6),  
section 71 (9), section 75 (3), section 77,  
section 78 (3), section 85 (5), section 86 (4),  
section 87 (2), section 88 (1), section 89 (2),  
section 89 (7) and section 92 (1).