
Workers Compensation Act 1987 No 70

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[Part 4](#) > [Division 6](#) > [Section 145](#)

145 Employer or insurer to reimburse Insurance Fund (cf former s 18C (21)-(26))

- (1) The Nominal Insurer may serve on a person who, in the opinion of the Nominal Insurer, was—
 - (a) in respect of an injured worker to or in respect of whom a payment has been made by the Nominal Insurer in respect of a claim under this Division, an employer at the relevant time, or
 - (b) an insurer under this Act of such an employer,a notice requiring that person, within a period specified in the notice, to reimburse the Insurance Fund an amount (not being an amount exceeding the amount of the payment made) specified in the notice.
- (2) The Nominal Insurer may, by instrument in writing, waive the liability of an employer under subsection (1) to reimburse the Insurance Fund an amount, if the Nominal Insurer, in respect of the amount, is satisfied that—
 - (a) the amount is beyond the capacity of the employer to pay,
 - (b) the employer could not reasonably have been expected to regard himself or herself as an employer at the relevant time,
 - (c) the employer, not being a corporation, is bankrupt and the liability under this section is not provable in the bankruptcy,
 - (d) the employer, being a corporation, is being wound up and the liability under this section is not provable in the winding up,
 - (e) the employer, being a corporation, has been dissolved, or
 - (f) it would not be commercially feasible for the Nominal Insurer to attempt to recover the amount.
- (3) A person on whom a notice has been served under subsection (1) in respect of an injured worker may, within the period specified in the notice, apply to the Commission for a determination as to the person's liability in respect of the payment concerned.

- (4) The Commission may hear any such application and may—
- (a) make such determination in relation to the application, and
 - (b) make such awards or orders as to the payment of compensation under this Act to or in respect of the injured worker concerned,
- as the Commission thinks fit.
- (4A) The Commission is not authorised to make a determination that waives the liability of an employer under subsection (1) to reimburse the Insurance Fund or that limits or otherwise affects any function of the Nominal Insurer to decide whether or not any such liability should be waived.
- (5) In any proceedings under subsection (4), a certificate executed by the Nominal Insurer and certifying that—
- (a) the payments specified in the certificate were paid to or in respect of an injured worker named in the certificate, and
 - (b) a person named in the certificate was, in the opinion of the Nominal Insurer, liable at the relevant time to pay to or in respect of the injured worker compensation under this Act or work injury damages,
- is (without proof of its execution by the Nominal Insurer) admissible in evidence in any proceedings and is evidence of the matters stated in the certificate.
- (6) The Nominal Insurer may recover an amount specified in a notice served under subsection (1) (being a notice in respect of which an application has not been made under subsection (3)) from the person to whom the notice was given as a debt in a court of competent jurisdiction.
- (7) An order by the Commission that the Nominal Insurer is to be reimbursed by a person named in the determination concerned may be enforced under section 59 of the [Personal Injury Commission Act 2020](#).