

Rural Workers Accommodation Act 1969 No 34

[1969-34]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[State Insurance and Care Governance Act 2015 No 19](#) (not commenced)

Authorisation

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Rural Workers Accommodation Act 1969 No 34



New South Wales

An Act to provide for the accommodation of rural workers; to repeal the *Rural Workers Accommodation Act 1926* and the *Rural Workers Accommodation (Amendment) Act 1951*; and for purposes connected therewith.

Part 1 Preliminary

1 Name of Act

- (1) This Act may be cited as the *Rural Workers Accommodation Act 1969*.
- (2) (Repealed)

2 Repeal

- (1) The *Rural Workers Accommodation Act 1926* and the *Rural Workers Accommodation (Amendment) Act 1951* are hereby repealed.
- (2), (3) (Repealed)

3 Definitions

In this Act:

accommodation means residential accommodation.

agricultural or pastoral occupation means work in or in connection with:

- (a) the sowing, raising, or harvesting of crops of grain, fodder, sugar cane, fruit, or any other crop or farm produce whether grown for food or not, or
- (b) the management, rearing, grazing or feeding of animals that are being kept or raised for a commercial purpose, or
- (c) shearing or crutching of animals, or
- (d) scouring, sorting or pressing of wool, or
- (e) dairying, or

(f) any other occupation carried on in connection with, or as ancillary to, an occupation mentioned in paragraph (a), (b), (c), (d) or (e) of this definition.

code of practice means a code of practice in force under Part 3.

rural premises means farm, orchard, pastoral holding, or other agricultural or rural holding.

rural worker means a person who works at rural premises in an agricultural or pastoral occupation.

WorkCover means the WorkCover Authority constituted by the [Workplace Injury Management and Workers Compensation Act 1998](#).

4 (Repealed)

4A Act to bind the Crown

This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

Part 2 Provision of accommodation

5 Accommodation to be provided for rural worker

A person who has control of rural premises must provide suitable accommodation to a rural worker who works at the rural premises if due to the nature of the work, the rural worker must live for a period exceeding 24 hours at or near the rural premises.

Maximum penalty: 250 penalty units.

6 Cost of accommodation (cf section 22 of [Occupational Health and Safety Act 2000](#))

The accommodation provided for a rural worker is, subject to any contrary provision of a Commonwealth or State industrial instrument applicable to the worker, to be provided free of cost to the worker.

7 Civil liability not affected (cf section 32 of [Occupational Health and Safety Act 2000](#))

Nothing in this Part is to be construed:

- (a) as conferring a right of action in any civil proceedings in respect of any contravention, whether by act or omission, of any provision of this Part, or
- (b) as conferring a defence to an action in any civil proceedings or as otherwise affecting a right of action in any civil proceedings.

8 Defence (cf section 28 of [Occupational Health and Safety Act 2000](#))

It is a defence to any proceedings against a person for an offence against a provision of

this Act or the regulations if the person proves that:

- (a) it was not reasonably practicable for the person to comply with the provision, or
- (b) the commission of the offence was due to causes over which the person had no control and against the happening of which it was impracticable for the person to make provision.

Part 3 Codes of practice

9 Purpose of codes (cf section 40 of *Occupational Health and Safety Act 2000*)

The purpose of a code of practice is to provide practical guidance to persons who have control of rural premises with respect to the type and nature of accommodation that is suitable for rural workers for the purposes of this Act.

10 WorkCover may prepare draft codes (cf section 41 of *Occupational Health and Safety Act 2000*)

- (1) WorkCover may prepare draft codes of practice.
- (2) A code of practice may refer to or incorporate, with or without modification, a document prepared or published by a body specified in the code, as in force at a particular time or from time to time.

11 Consultation on draft codes (cf section 42 of *Occupational Health and Safety Act 2000*)

- (1) WorkCover is to consult with such organisations or persons as the Minister may direct about a draft code and may consult with such others as WorkCover thinks appropriate.
- (2) WorkCover is to take into consideration any submissions it receives that relate to a draft code before it makes any recommendation to the Minister for its approval.

12 Approval of codes by Minister (cf section 43 of *Occupational Health and Safety Act 2000*)

The Minister may, having regard to any recommendation of WorkCover, approve a code of practice.

13 Publication, commencement and availability of codes (cf section 44 of *Occupational Health and Safety Act 2000*)

- (1) An approved code of practice:
 - (a) is to be published in the Gazette, and
 - (b) takes effect on the day on which it is so published or, if a later day is specified in the code for that purpose, on the later day so specified.
- (2) The following are to be made available for public inspection without charge at the principal office of WorkCover during normal office hours:

- (a) a copy of each code of practice,
- (b) if an approved code of practice has been amended, a copy of the code as so amended,
- (c) if an approved code of practice refers to or incorporates any other document prepared or published by a specified body, a copy of each such document.

Editorial note—

For codes of practice under this section see Gazette No 88 of 30.6.2006, p 5243.

14 Amendment or revocation of codes (cf section 45 of *Occupational Health and Safety Act 2000*)

An approved code of practice may be amended or revoked by an instrument prepared, approved and published in accordance with the relevant procedures of this Part with respect to codes of practice.

15 Use of codes (cf section 46 of *Occupational Health and Safety Act 2000*)

- (1) In any proceedings for an offence against this Act or the regulations:
 - (a) an approved code of practice that is relevant to any matter which it is necessary for the prosecution to prove to establish the commission of the offence by a person is admissible in evidence in those proceedings, and
 - (b) the person's failure at any material time to observe the code is evidence of the matter to be established in those proceedings.
- (2) A person is not liable to any civil or criminal proceedings by reason only that the person has failed to observe an approved code of practice.

Part 4 Application of *Work Health and Safety Act 2011*

16 Act adds to protection provided by WHS Act

If a provision of the *Work Health and Safety Act 2011* or the regulations under that Act applies to rural premises to which this Act applies, that provision continues to apply, and must be observed, in addition to this Act or the regulations under this Act.

17 WHS Act prevails

The provisions of the *Work Health and Safety Act 2011* and the regulations under that Act prevail, to the extent of any inconsistency, over the provisions of this Act (other than section 6) and the regulations under this Act.

18 Compliance with this Act is no defence to prosecution under WHS Act

Compliance with this Act or the regulations, or with any requirement imposed under this

Act or the regulations, is not in itself a defence in any proceedings for an offence against the *Work Health and Safety Act 2011* or the regulations under that Act.

19 Relationship between duties under this Act and WHS Act

Evidence of a relevant contravention of this Act or the regulations is admissible in any proceedings for an offence against the *Work Health and Safety Act 2011* or the regulations under that Act.

20 No double jeopardy

Where an act or omission constitutes an offence:

- (a) under this Act or the regulations, and
 - (b) under the *Work Health and Safety Act 2011* or the regulations under that Act,
- the offender is not liable to be punished twice in relation to the offence.

Part 5 Enforcement

21 Application of *Work Health and Safety Act 2011*

- (1) Parts 3, 9, 10 and 13, and section 271, of the *Work Health and Safety Act 2011* (the **applied provisions**) and any regulations under those provisions extend to this Act and its enforcement.
- (2) Accordingly, for that purpose a reference in the applied provisions to that Act or those regulations includes a reference to this Act and the regulations under this Act.
- (3) For the purposes of this section:
 - (a) premises that are used for accommodation provided for a rural worker for the purposes of this Act are taken to be a workplace, and
 - (b) in relation to such premises, the reference to the person with management or control of the place in section 170 of the *Work Health and Safety Act 2011* is taken to be a reference to the rural worker resident in premises.
- (4) The regulations may make other provisions modifying the applied provisions for the purposes of this section.

Part 6 Miscellaneous

22 Liability of directors etc for offences by corporation—accessory to the commission of the offences

- (1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation.

- (2) A person commits an offence against this section if:
- (a) a corporation commits a corporate offence, and
 - (b) the person is:
 - (i) a director of the corporation, or
 - (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the corporate offence, and
 - (c) the person:
 - (i) aids, abets, counsels or procures the commission of the corporate offence, or
 - (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
 - (iii) conspires with others to effect the commission of the corporate offence, or
 - (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty: The maximum penalty for the corporate offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.

23 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to the objects of this Act.
- (2) The regulations may apply, adopt or incorporate any publication as in force at a

particular time or from time to time.

- (3) The regulations may create offences punishable by a penalty not exceeding 100 penalty units.

24 Savings and transitional provisions

Schedule 1 has effect.

Schedule 1 Savings and transitional provisions

(Section 24)

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Rural Workers Accommodation Amendment Act 2005

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.