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WORKERS COMPENSATION LAW MANUAL QUEENSLAND

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UPDATED COMMENTARY

Rohan Armstrong has provided the following new commentary.

Workers Compensation and Rehabilitation Act 2003 – (Annotated)

State Government Insurance Office (Qld) v Brisbane Stevedoring Pty Ltd (1969) 123 CLR 228 considered a predecessor provision to the current Queensland workers' compensation legislation and whether the insurance cover extended to indemnify an employer against liability to indemnify the owner of a mobile crane which had hired it to the employer pursuant to terms and conditions containing a contractual indemnity against liability for injury to a worker employed by the employer. See [2.220] and [2.3425].

In *Byrne v People Resourcing (Qld) Pty Ltd* [2015] 2 Qd R 397, there was a similar contest concerning the impact of a contractual indemnity and the limits of indemnity under the current legislation, the WCRA. See [2.220] and [2.3425].

In *Bilson v Vatsonic Communications Pty Ltd* [2024] QCA 171, the Court of Appeal considered whether the effect of s 236B of the WCRA prevents an indemnity clause for a worker's damages being enforced against that worker's employer. See [2.220].

In *Apelu v Lusty Tip Trailers Pty Ltd* [2024] QCA 158, the Court of Appeal considered the argument that a notice of assessment for a PTSD injury necessarily encompassed an assessment of a schizophrenia condition or otherwise entitled the claimant to pursue his claim for damages for that condition. See [2.1950] and [2.3435].

Bilson v Vatsonic Communications Pty Ltd [2024] QCA 171 underscores the importance of a claim for contribution or indemnity by an insurer who adds the person as a contributor under s 278A. See [2.3400], [2.3425] and [2.3990].

In *SS Family Pty Ltd v WorkCover Queensland* [2018] QCA 296, WorkCover denied that it was obliged to indemnify the "employer" upon the ground that the claimant was not a "worker" at the material time because he performed his work under a contract of service with a trust of which he was a trustee. See [2.3435].

In *Goodhew v WorkCover Queensland* [2024] QSC 66, WorkCover denied liability in connection with the event the subject of the claim, on the basis Mr Goodhew was not a worker for the purposes of the Act but, rather, was a contractor. See [2.3435].

In *Manca v Teys Australia Beenleigh Pty Ltd* [2024] QCA 60, the Court of Appeal considered whether the risk that a meatworker might slip on stairs where the employer had taken precautions to avoid the risk was “not insignificant”. See [2.4300].

In *Bilson v Vatsonic Communications Pty Ltd* [2024] QCA 171, the employer argued that an informal system of work was a safe system and that the reduction of the safe work method into a written statement was not shown on the evidence to be one that would have made any difference, given that the workers plainly knew what the system of work was but just failed to follow it on this occasion. See [2.4300].

Section 305D factual causation is discussed in regard to *Manca v Teys Australia Beenleigh Pty Ltd* [2024] QCA 60 and *Bilson v Vatsonic Communications Pty Ltd* [2024] QCA 171. See [2.4310].

In *Cvilikas v Sunshine Coast Hospital and Health Service* [2023] QSC 36, a nurse was injured when she put out her left arm to “catch” a moving, bulky and weighty mattress that was otherwise going to land on an empty bed. See [2.4330].

In *Anderson v Pickles Auctions Pty Ltd* [2023] QCA 205, the Court of Appeal considered the interplay between ss 310 – 314 and the UCPR where the award of damages was between the parties’ written final offers. See [2.5000].

Practical Guidance

Bilson v Vatsonic Communications Pty Ltd [2024] QCA 171 is the first “hybrid” claim case to be considered at appellate level by the Court of Appeal considering damages at common law versus damages restricted by the CLA and WCRA. See [PG.1.260].

Lisa Blumke has provided the following new commentary.

Common law

Application pursuant to s 31(2) of the Limitation of Actions Act 1974

In *Wood v Safe Places Community Services Ltd* [2024] QDC 92, the issue to be decided was whether a material fact of a decisive character was not within the applicant’s means of knowledge prior to the expiry of the limitation period. See [5.420].

Duty of care

In *Gairns v Pro Music Pty Ltd* [2024] QDC 118, an internal sales supervisor claimed he suffered a psychiatric injury after he was demoted. See [5.550].

Reasonable foreseeability

In *Griffin v Brisbane City Council* [2023] QDC 229, a customer contact central consultant alleged she sustained a psychological injury in the course of her employment. In *Griffin v Brisbane City Council* [2024] QCA 157, the Court noted that both parties agreed, correctly, that the fact-finding at trial had miscarried. See [5.805].