

Queensland



**COMMON LAW PRACTICE  
AND WORKERS'  
COMPENSATION  
AMENDMENT ACT 1994**

**Act No. 85 of 1994**

Queensland



**COMMON LAW PRACTICE AND  
WORKERS' COMPENSATION  
AMENDMENT ACT 1994**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	4
2	Commencement .....	4
<b>PART 2—AMENDMENT OF COMMON LAW PRACTICE ACT 1867</b>		
3	Amended Act .....	4
4	Insertion of heading and s 1A .....	4
Preliminary		
1A	Short title .....	4
5	Amendment of s 13 (Actions how brought) .....	5
6	Replacement of heading .....	5
Transitional		
7	Replacement of s 95 .....	6
95	Application of amendments made by Common Law Practice and Workers' Compensation Amendment Act 1994 .....	6
<b>PART 3—AMENDMENT OF WORKERS' COMPENSATION ACT 1990</b>		
8	Amended Act .....	6
9	Amendment of s 2.1 (Interpretation) .....	6
10	Insertion of s 2.1B .....	7
2.1B	Meaning of "spouse" .....	7

11	Insertion of s 13.7 . . . . .	8
13.7	Application of amendments made by Common Law Practice and Workers' Compensation Amendment Act 1994 . . . . .	8

**PART 4—CONSEQUENTIAL AMENDMENTS**

12	Act amended in Schedule . . . . .	8
----	-----------------------------------	---

<b>SCHEDULE</b> . . . . .	<b>9</b>
---------------------------	----------

**AMENDMENT OF LAW REFORM (TORTFEASORS  
CONTRIBUTION, CONTRIBUTORY NEGLIGENCE, AND  
DIVISION OF CHATTELS) ACT 1952**

Queensland



## **Common Law Practice and Workers' Compensation Amendment Act 1994**

**Act No. 85 of 1994**

---

**An Act to amend the *Common Law Practice Act 1867* and the  
*Workers' Compensation Act 1990*, and for other purposes**

*[Assented to 1 December 1994]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Common Law Practice and Workers' Compensation Amendment Act 1994*.

### **Commencement**

2. This Act is taken to have commenced on 17 October 1994.

## **PART 2—AMENDMENT OF COMMON LAW PRACTICE ACT 1867**

### **Amended Act**

3. This Part amends the *Common Law Practice Act 1867*.

### **Insertion of heading and s 1A**

4. At the beginning of the Act—

*insert—*

*'Preliminary*

### **'Short title**

**'1A.** This Act may be cited as the *Common Law Practice Act 1867*.'

### **Amendment of s 13 (Actions how brought)**

**5.(1)** Section 13, ‘wife husband parent and child’—

*omit, insert—*

‘spouse, parent and child’.

**(2)** Section 13—

*insert—*

‘**(2)** In this section—

“**spouse**” of a deceased person includes a person who, although not legally married to the deceased person, lived with the person as the person’s husband or wife—

- (a) for a continuous period of at least 1 year immediately before the death; or
- (b) if the deceased person left a dependant who is a child of the relationship—immediately before the death.

‘**(3)** For subsection (2)—

“**child of the relationship**” means a child of the deceased person and the other person, and includes a child born after the death.

“**dependant**” of a deceased person includes a child born after the death happens who would have been wholly or partially dependant on the deceased person’s earnings after the child’s birth if the person had not died.’.

### **Replacement of heading**

**6.** Before section 95, heading—

*omit, insert—*

*‘Transitional’.*

### **Replacement of s 95**

7. Section 95—

*omit, insert—*

### **‘Application of amendments made by Common Law Practice and Workers’ Compensation Amendment Act 1994**

‘**95.(1)** To remove any doubt, the amendments of section 13 made by the *Common Law Practice and Workers’ Compensation Amendment Act 1994* apply only to a death that happens on or after 17 October 1994.

‘**(2)** Subsection (1) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

‘**(3)** This section expires 3 years after it commences.’.

## **PART 3—AMENDMENT OF WORKERS’ COMPENSATION ACT 1990**

### **Amended Act**

8. This Part amends the *Workers’ Compensation Act 1990*.

### **Amendment of s 2.1 (Interpretation)**

9. Section 2.1(1), definition “spouse”—

*omit, insert—*

‘**“spouse”** see section 2.1B.’.

---

**Insertion of s 2.1B**

**10.** Before section 2.2—

*insert—*

**‘Meaning of “spouse”**

**‘2.1B(1)** For an injured worker, **“spouse”** includes a person who, although not legally married to the injured worker, lived with the worker as the worker’s husband or wife—

- (a) for a continuous period of at least 1 year immediately before the injury happened and who continues to live with the worker after the injury; or
- (b) if the worker has a dependant who is a child of the relationship—immediately before the injury happened and who continues to live with the worker after the injury.

**‘(2)** For a deceased worker, **“spouse”** includes a person who, although not legally married to the deceased worker, lived with the worker as the worker’s husband or wife—

- (a) for a continuous period of at least 1 year immediately before the death; or
- (b) if the worker left a dependant who is a child of the relationship—immediately before the death.

**‘(3)** For this section—

**“child of the relationship”** means a child of the worker and the other person, and, for a deceased worker, includes a child born after the death.

**“dependant”** includes—

- (a) for an injured worker—a child born after the injury happens who is wholly or partially dependent on the worker’s earnings after the child’s birth; and
- (b) for a deceased worker—a child born after the death happens who would have been wholly or partially dependant on the worker’s earnings after the child’s birth if the worker had not died.’.



### **Insertion of s 13.7**

**11.** At the end of the Act—

*insert—*

#### **‘Application of amendments made by Common Law Practice and Workers’ Compensation Amendment Act 1994**

‘**13.7(1)** To remove any doubt, the amendments of this Act made by the *Common Law Practice and Workers’ Compensation Amendment Act 1994* apply only to an injury or death that happens on or after 17 October 1994.

‘**(2)** Subsection (1) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

‘**(3)** This section expires 3 years after it commences.’.

## **PART 4—CONSEQUENTIAL AMENDMENTS**

### **Act amended in Schedule**

**12.** The Schedule amends the Act mentioned in it.

## **SCHEDULE**

### **AMENDMENT OF LAW REFORM (TORTFEASORS CONTRIBUTION, CONTRIBUTORY NEGLIGENCE, AND DIVISION OF CHATTELS) ACT 1952**

section 12

**1. Section 5(b), ‘wife, husband’—**

*omit, insert—*

‘spouse’.

**2. Section 8(a), after ‘expressions’—**

*insert—*

‘ “spouse”, ’.