

Queensland



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

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

1994

A BILL

FOR

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

*Common Law Practice and Workers'
Compensation Amendment*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

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

4

5

Commencement

6

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

7

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

8

9

Amended Act

10

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

11

Insertion of heading and s 1A

12

Clause **4.** At the beginning of the Act—

13

insert—

14

'Preliminary

15

'Short title

16

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

17

*Common Law Practice and Workers'
Compensation Amendment*

	Amendment of s 13 (Actions how brought)	1
Clause	5.(1) Section 13, ‘wife husband parent and child’—	2
	<i>omit, insert—</i>	3
	‘spouse, parent and child’.	4
	(2) Section 13—	5
	<i>insert—</i>	6
	‘ (2) In this section—	7
	“spouse” of a deceased person includes a person who, although not legally	8
	married to the deceased person, lived with the person as the person’s	9
	husband or wife—	10
	(a) for a continuous period of at least 1 year immediately before the	11
	death; or	12
	(b) if the deceased person left a dependant who is a child of the	13
	relationship—immediately before the death.	14
	‘ (3) For subsection (2)—	15
	“child of the relationship” means a child of the deceased person and the	16
	other person, and includes a child born after the death.	17
	“dependant” of a deceased person includes a child born after the death	18
	happens who would have been wholly or partially dependant on the	19
	deceased person’s earnings after the child’s birth if the person had not	20
	died.’.	21
	Replacement of heading	22
Clause	6. Before section 95, heading—	23

*Common Law Practice and Workers'
Compensation Amendment*

omit, insert—

1

‘Transitional’.

2

Replacement of s 95

3

Clause 7. Section 95—

4

omit, insert—

5

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

6

7

‘**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.

8

9

10

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

11

12

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

13

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

14

15

Amended Act

16

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

17

Amendment of s 2.1 (Interpretation)

18

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

19

omit, insert—

20

‘**“spouse”** see section 2.1B.’.

21

*Common Law Practice and Workers'
Compensation Amendment*

	Insertion of s 2.1B	1
Clause	10. Before section 2.2—	2
	<i>insert—</i>	3
	‘Meaning of “spouse”	4
	‘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—	5 6 7
	(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	8 9 10
	(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.	11 12 13
	‘(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—	14 15 16
	(a) for a continuous period of at least 1 year immediately before the death; or	17 18
	(b) if the worker left a dependant who is a child of the relationship—immediately before the death.	19 20
	‘(3) For this section—	21
	“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.	22 23 24
	“dependant” includes—	25
	(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	26 27 28
	(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.’.	29 30 31

*Common Law Practice and Workers'
Compensation Amendment*

Insertion of s 13.7

Clause **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

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

SCHEDULE

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

	1
	2
	3
	4
section 12	5
1. Section 5(b), ‘wife, husband’—	6
<i>omit, insert—</i>	7
‘spouse’.	8
2. Section 8(a), after ‘expressions’—	9
<i>insert—</i>	10
‘ “spouse”, ’.	11
	12