



Australian Capital Territory

Workers Compensation Amendment Act 2006 (No 2)

A2006-8

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J2005-836

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Australian Capital Territory

Workers Compensation Amendment Act 2006 (No 2)

A2006-8

An Act to amend the *Workers Compensation Act 1951*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2005-836

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Workers Compensation Amendment Act 2006 (No 2)*.

2 Commencement

This Act commences on the commencement of the *Workers Compensation Amendment Act 2006*.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Workers Compensation Act 1951*.

**4 Meaning of worker
Chapter 3 heading, note 1**

omit

- religious worker (s 17)

substitute

- family day care carer (s 16A)
- religious worker (s 17)

5 Chapter 3 heading, note 2

before

s 17 (Religious workers)

insert

s 16A (Family day care carers),

6 New section 16A

insert

16A Family day care carers

- (1) The Minister may make a declaration for this section in accordance with a request by—
 - (a) an approved family day care service; or
 - (b) an approved in-home care service.
- (2) The Minister may, on the Minister's own initiative, make a declaration for this section if the Minister considers that people engaged by an approved family day care service or an approved in-home care service should be treated as workers of the service.
- (3) For this Act—
 - (a) an individual included in a class of individuals declared by the Minister is taken to be a **worker** employed by the person stated in the declaration to be the employer of individuals in that class; and
 - (b) the individual's employment is taken to be as stated in the declaration for individuals in the class.
- (4) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

- (5) In this section:

approved family day care service—see the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth), section 3 (1).

approved in-home care service—see the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth), section 3 (1).

**7 Religious workers
Section 17 (1)**

omit

, in writing,

**8 Compensation for death or incapacity through disease
Section 27 (2)**

substitute

- (2) If the worker dies or is totally or partially incapacitated for work as a result of the disease, or the worker received medical treatment in relation to the disease, then, for this Act, unless the contrary intention appears—
- (a) the contraction of the disease, or the aggravation, acceleration or recurrence of the disease is a personal injury to the worker arising out of the employment of the worker by the worker's employer; and
 - (b) the date of the injury is the earliest of the following:
 - (i) the date of the death;
 - (ii) the date of the start of the incapacity;
 - (iii) the date when the medical treatment was first received.

**9 Entitlement to weekly compensation for first 26 weeks of incapacity
Section 39 (3)**

omit

pension age

substitute

65

**10 Entitlement to weekly compensation after first 26 weeks of incapacity
Section 40 (4)**

omit

pension age

substitute

65

**11 Entitlement to weekly compensation after 26 weeks of partial incapacity
Section 42 (1)**

after

the weekly amount the worker is being paid for working

insert

or could earn in reasonably available suitable employment

12 Section 42 (3)

substitute

- (3) For this section, in working out the average weekly amount the worker could earn, consideration may be given to the following:
- (a) suitable employment that the worker unreasonably rejects;
 - (b) suitable employment that the worker obtains but unreasonably discontinues.
- (4) In this section:

statutory ceiling, in relation to an amount, means 150% of AWE at the time the amount is to be paid.

13 Section 70

substitute

70 Employer liability for medical treatment etc

- (1) The employer is liable to pay—
 - (a) in relation to the cost of medical treatment reasonably received in relation to the injury—an amount of compensation appropriate for the provision of the medical treatment, having regard to the charges customarily made for similar medical treatment where the treatment is received; and
 - (b) in relation to the cost of rehabilitation services received by the worker in relation to the injury under the worker's personal injury plan—the cost of the services in accordance with the plan; and
 - (c) in relation to any damage to, or loss of, the worker's clothing sustained in association with the injury—compensation of a reasonable amount for the repair or replacement of the damaged or lost clothing.

Note 1 Rehabilitation services include training and retraining services—see the dictionary, def *rehabilitation services*.

Note 2 Ch 5 deals with personal injury plans.

- (2) However, the total amount payable under subsection (1) for each of the following must not be more than the maximum amount:
 - (a) for the cost of medical treatment consisting of the repair or replacement of a worker's contact lenses, crutches, prosthesis, spectacles or other artificial aid;
 - (b) for damage to or loss of a worker's clothing.

- (3) In subsection (2):
- maximum amount*, for medical treatment, damage or loss, means—
- (a) if an amount has been agreed between the worker and employer—that amount; or
 - (b) in any other case—\$500 cpi indexed.
- (4) For this section, the cost of medical treatment or rehabilitation services is taken to include—
- (a) the amount of wages lost by the worker because of the worker's attendance at a place (the *relevant place*) to receive the treatment or services; and
 - (b) the cost of taking the worker (whether the worker or someone else does the taking) to and from the relevant place worked out under either—
 - (i) section 74 (Transport costs other than private car); or
 - (ii) section 75 (Working out transport costs for private cars); and
 - (c) the cost of any accommodation (including the cost of meals required by the worker because of the worker's attendance at the relevant place worked out under section 76 (Costs of accommodation and meals)).

14 **Claim for compensation for pt 4.5**
Section 71 (1)

omit

A worker

substitute

The worker

15 Section 73 heading

substitute

73 Payments for medical treatment received from hospital

**16 Transport costs other than private car
Section 74 (1)**

omit

to undergo medical treatment

substitute

to receive medical treatment or rehabilitation services

**17 Working out transport costs for private cars
Section 75 (1)**

omit

to undergo medical treatment

substitute

to receive medical treatment or rehabilitation services

**18 Costs of accommodation and meals
Section 76 (1), note**

omit

19 Section 76 (3)

substitute

- (3) The worker is not entitled to payment for a meal unless the meal is eaten while the worker—
- (a) is travelling to or from a place to receive medical treatment or rehabilitation services for which compensation is payable; or

- (b) is at a place to receive medical treatment or rehabilitation services for which compensation is payable; or
- (c) is staying at accommodation for which compensation is payable under this part.

20 Section 86

substitute

86 Definitions for ch 5

- (1) In this Act:

personal injury plan, for a worker, means a plan for coordinating and managing the aspects of injury management that relate to medical treatment and rehabilitation services for the worker to achieve a timely, safe and durable return to work for the worker.

- (2) In this chapter:

injured worker means a worker who has received a workplace injury.

injury management means the process that consists of activities and procedures that are carried out or established to achieve a timely, safe and durable return to work for injured workers.

injury management program means a coordinated and managed program that integrates all aspects of injury management (including medical treatment, rehabilitation services, claims management and employment management practices) to achieve the best results for a timely, safe and durable return to work of injured workers.

injury notice—see section 93 (2) (Early notification of workplace injury).

nominated treating doctor, for an injured worker, means the doctor or medical practice nominated under section 102 (Nomination of doctor for personal injury plan).

workplace injury means an injury in relation to which compensation is or may be payable under this Act.

**21 Worker's personal injury plan obligations
Section 101 (2)**

substitute

- (2) The injured worker must comply with reasonable obligations imposed on the worker under the worker's personal injury plan, including any obligation to receive medical treatment or rehabilitation services.

22 Section 107

omit everything before subsection (2), substitute

107 Payment of cost of medical treatment and rehabilitation services for injured worker

- (1) The worker's personal injury plan may provide for the insurer to pay the following costs:
 - (a) the cost of any medical treatment for the workplace injury provided to the worker by the nominated treating doctor if the nominated treating doctor is prepared to take part in the arrangements under the plan;
 - (b) the cost of other medical treatment described in the plan that is provided to the worker for the workplace injury;

- (c) the cost of any rehabilitation services (including, if necessary, vocational rehabilitation) provided to the worker under the plan.

Examples of other medical treatment for par (b)

Treatment may be identified by reference to factors like the kind of medical treatment, the identity of the health care professional who provides the medical treatment, and the circumstances in which the medical treatment is provided.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

**23 Liability not affected
Section 115 (b)**

omit

rehabilitation, retraining

substitute

rehabilitation services

**24 Regulation-making power
Section 223 (2) (f) (iii)**

substitute

(iii) rehabilitation services;

25 Dictionary, definition of *pension age*

omit

26 Dictionary, new definition of *rehabilitation services*

insert

rehabilitation services includes training and retraining services.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 16 February 2006.

2 Notification

Notified under the Legislation Act on 15 March 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Workers Compensation Amendment Bill 2006 (No 2), which originated in the Legislative Assembly as the Workers Compensation Amendment Bill 2006 and was passed by the Assembly on 9 March 2006.

Clerk of the Legislative Assembly

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