

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

Workers Compensation Amendment BILL 2001

EXPLANATORY MEMORANDUM

**Circulated by authority of the
Minister of Urban Services**

| | |
|--|----|
| OUTLINE | 5 |
| CLAUSES 1, 2, 3 FORMAL REQUIREMENTS | 6 |
| CLAUSE 4 SUBSTITUTION | 6 |
| New Section 1 Change to Name of Act | 6 |
| New Section 1A Dictionary | 6 |
| New Section 2 Role of Notes in the Act | 6 |
| New Section 2A Meaning of Injury | 6 |
| New Section 3 Meaning of Employer | 6 |
| New Section 3A Meaning of Totally Incapacitated | 6 |
| New Section 4 Meaning of Partially Incapacitated | 6 |
| New Section 4A Meaning of Worker | 7 |
| New Section 4B Meaning of Who is Not a Worker | 7 |
| New Section 4C When is Casual a Worker | 7 |
| New Section 4D Application of Regular/Systematic Test to Determine the Nature of Employment | 7 |
| New Section 5 Workers Employed by Labour Hire Firms | 7 |
| New Section 5A Trainees as Workers | 7 |
| New Section 5B Outworkers | 8 |
| New Section 5C Timber Contractors | 8 |
| New Section 5D Religious Workers | 8 |
| New Section 5E Commercial Voluntary Workers | 8 |
| New Section 5F Public Interest Voluntary Workers | 8 |
| CLAUSE 5 SUBSTITUTION | 8 |
| New Section 6C Compensation for Personal Injury | 8 |
| New Section 6D When is Compensation not Payable | 8 |
| New Section 7 When Payments May be Cumulative | 9 |
| CLAUSE 6 SUBSTITUTION, COMPENSATION LIMITED TO TERRITORY WORKERS | 9 |
| New Section 7A (3) Working Outside the Territory | 9 |
| CLAUSE 7 SUBSTITUTION | 9 |
| New Section 8 Journey Claims | 9 |
| CLAUSE 8 COMPENSATION FOR DEATH OR INCAPACITY THROUGH DISEASE | 9 |
| CLAUSE 9 & 10 COMPENSATION FOR DISEASE | 9 |
| CLAUSE 11 OMISSION | 10 |
| CLAUSE 12 SECTIONS 11, 12 AND 13 HAVE BEEN SUBSTITUTED | 10 |

| | | |
|---|--|----|
| New Section 11 | Action by employer in relation to claims | 10 |
| New Section 12 | Register of Injuries | 10 |
| Updated Section 13 | No Contracting Out of Liability under the Act..... | 10 |
| CLAUSE 13 | SECTION 15 IS OMITTED AND SUBSTITUTED..... | 10 |
| New section 15 | Medical Referees | 10 |
| CLAUSE 14 | PART 2A IS OMITTED AND SUBSTITUTED. | 10 |
| New Sections 15A, B, C, D, E - Vocational Retraining..... | | 10 |
| CLAUSE 15 | SECTIONS 16 TO 17D ARE OMITTED SUBSTITUTED SECTIONS 16, 16A, 16B, 16C, 16D, 17, 17A, B, C, AND D..... | 11 |
| New Section 16 | Meaning of Compulsory Insurance | 11 |
| New section 16A | Approval and Criteria for the Approval of Insures..... | 11 |
| New Section 16B | Suspension or Revocation of Insurers Approval | 11 |
| New Section 16C | Employers Required to have Insurance | 12 |
| New Section 16D | Liability of Executive Officers for Offences | 12 |
| New Section 17 | No Effect on Other Forms of Insurance | 12 |
| New Section 17A | When Triple Premium Penalty is due to Nominal Insurer | 12 |
| New Section 17B | Evidence of Compulsory Insurance..... | 12 |
| New Section 17C | Approval to Become Self Insured..... | 13 |
| New Section 17D | Approved Insurer Must not Refuse to Issue Compulsory Insurance Policy..... | 13 |
| New Section 17DA | Cancellation of a Compulsory Insurance Policy | 13 |
| CLAUSES 16 | COVER NOTES | 13 |
| CLAUSE 17 | INFORMATION TO BE PROVIDED TO INSURERS | 13 |
| New Section 18 | Information for Insurers..... | 13 |
| New Section 18AA | Requirement for Audited Statement of Wages..... | 13 |
| New Section 18AB | Requirement for Statutory Deceleration by Employers..... | 14 |
| New Section 18AC | Procedures Following Cancellation..... | 14 |
| New Section 18AD | Offence by Registered Auditor | 14 |
| New Section 18AE | Offence for False Swearing | 14 |
| New Section 18AF | Restriction on Ability to Employ after Second Offence..... | 14 |
| CLAUSE 18 | INTERVENTION BY THE NOMINAL INSURER..... | 14 |
| New Section 18F | Notice to Nominal Insurer by Uninsured Employer..... | 14 |
| New Section 18FA | Prevention of Backdating of Policy's..... | 15 |
| CLAUSE 19 | PAYMENT BY NOMINAL INSURER..... | 15 |
| Amended Section 18G | Nominal Insurer Entitled to Treble Cost of Claim from Uninsured Employer..... | 15 |

| | | |
|------------------|---|----|
| CLAUSE 20 | REGULATION TO ALLOW MINISTER TO AUTHORISE PEOPLE..... | 15 |
| New Section 21AA | Minister may Authorise people with Specialist Skills..... | 15 |
| CLAUSE 21 | SUBSTITUTION..... | 15 |
| New Section 23D | Appointment of Inspectors | 15 |
| New Section 23E | Issue of Identity Cards to Inspectors | 15 |
| CLAUSE 22 | INSERTION | 15 |
| New section 23J | Penalty for Obstructing an Inspector | 15 |
| CLAUSE 23 | INSERTION PART 6C..... | 16 |
| New Section 26RA | Notice of Reviewable Decisions..... | 16 |
| New Section 26RB | Time for Making Appeal | 16 |
| CLAUSE 24 | SUBSTITUTION..... | 16 |
| New Section 26RC | Confidentiality | 16 |
| New section 26S | Time for Commencement of Prosecutions for Offences | 16 |
| New section 26T | Penalty for Making False or Misleading Statements..... | 16 |
| New Section 26U | Acts and Omissions of Representatives..... | 16 |
| New Section 27 | Criminal Liability of Officers of Corporation | 17 |
| New Section 27A | Ministers Advisory Committee | 17 |
| New section 27B | Rules of Court..... | 17 |
| New Section 27C | Practice Directions by Chief Magistrate..... | 17 |
| New Section 27CA | Reference to Previous Act | 17 |
| CLAUSE 26 | SUBSTITUTION..... | 17 |
| New Part 8 | Transitional Provisions | 17 |
| CLAUSE 27 | DICTIONARY..... | 18 |
| CLAUSE 28 | WORKERS COMPENSATION ACT RENUMBERING | 18 |
| CLAUSE 29 | LIMITATION ACT 1985 | 18 |
| CLAUSE 30 | MAGISTRATES COURT (CIVIL JURISDICTION)ACT 1982. | 18 |

EXPOSURE DRAFT

WORKERS COMPENSATION AMENDMENT BILL 2000

EXPLANATORY MEMORANDUM

OUTLINE

The proposed legislative changes are focused on reshaping the current ACT workers compensation scheme from one which is based on entitlement, to one which is based on rehabilitation, and return to work.

Amendment of the current workers compensation scheme will bring it into line with modern injury management focussed workers' compensation schemes.

These changes will be achieved through the improvement of injury management processes and the introduction of a comprehensive compliance model.

Effective rehabilitation will be supported by a benefit structure that encourages workers to return to work as early, and as safely, as possible.

In cases where disputes arise, the new regulations require that the parties are brought together early by the courts which will ensure the prompt settlement of dispute by either mediation, or if necessary, arbitration.

The changes proposed have been brought about through amendment to the existing Act and the improved use of regulations.

Further development of the scheme will be assisted by the use of information collected through the Accident Information Management System (AIMS) workers' compensation database being developed by ACT WorkCover.

Explanatory Memorandum

CLAUSES 1, 2, 3 FORMAL REQUIREMENTS

The first three clauses are formal requirements. They refer to the name of the Act, commencement and definitions of terms in the Principal Act. Clauses 1 and 2 commence on the day on which the Act is notified in the Gazette.

CLAUSE 4 SUBSTITUTION

Deals with the omission and substitution of sections and parts of the existing Act. Sections 1, 1A, 2, 3, 3A and 4 cover the name of the Act and the meaning of certain key words and phrases. Part 3 has been rewritten and deals with the meaning of worker.

New Section 1 Change to Name of Act

Changes the name of the Act from the *Workers' Compensation Act 1951* to the *Workers Compensation Act 1951*

New Section 1A Dictionary

As a part of the modernisation of the drafting style the previous definitions provided in the Act have been moved to a dictionary.

New Section 2 Role of Notes in the Act

Provides an explanation of the interpretation of notes used in the amending Bill. This section expires two years after commencement.

New Section 2A Meaning of Injury

Defines what an injury is for the purposes of this Act. Importantly injury means a physical or mental injury or a disease. There is now a test of substantial contribution attached to injuries caused by disease. The purpose of this change is to create a causal relationship between the workers employment and the contraction of a disease for the disease to be considered an injury within the meaning of the Act. Also, refer to section 6C.

New Section 3 Meaning of Employer

This section defines what an employer is for the purposes of this Act.

New Section 3A Meaning of Totally Incapacitated

This section defines what totally incapacitated is for the purposes of this Act.

New Section 4 Meaning of Partially Incapacitated

This section defines what partially incapacitated is for the purposes of this Act

Notes about Part 1B. To assist the reader Parliamentary Counsel has provided some guidelines with respect to the interpretation of who is and who is not a worker. In addition a flow chart has been provided to aid interpretation

New Section 4A Meaning of Worker

This section defines the meaning of worker for the purposes of this Act. This section also provides that the Minister may determine categories of workers for the purpose of the Act. A determination under this section is a notifiable instrument.

New Section 4B Meaning of Who is Not a Worker

This section defines for the purposes of this Act who is not a worker.

New Section 4C When is Casual a Worker

Provides that a worker does not include a casual employee employed to perform work for a principal that work being other than the principal's trade or business. However, the casual employee will be a worker if certain other provisions are satisfied.

New Section 4D Application of Regular/Systematic Test to Determine the Nature of Employment

This section details how a regular contractor or casual can establish whether or not they are a worker through the application of the regular and systematic test detailed in the section.

New Section 5 Workers Employed by Labour Hire Firms

This section provides a new approach to the relationship between labour hire firms and individuals seeking employment. For this Act an individual is taken to be a worker employed by the principal (the labour hire firm) if it is established that the individual has been engaged by the principal under a contract for services to work for an employer other than the principal.

For an individual to be taken as a worker section 5 requires that it should also be established that there is no contract to perform the work between the individual and the third party, for whom the work is to be performed; that the individual personally does all or part of the work; and that the individual is not an executive officer of the principal should the principal be a corporation.

New Section 5A Trainees as Workers

A new section dealing with Trainees it covers an expanding group of workers employed whether or not under a contract, or engaged under other arrangements. An individual may be taken to be a worker under this section even if the individual receives no payment while engaged.

New Section 5B Outworkers

Defines outworkers under the legislation, an outworker is taken to be a worker employed by the principal if the outworker satisfies a number of provisions set out in the section.

New Section 5C Timber Contractors

A modernisation and renumbering of the previous requirements in relation to timber workers

New Section 5D Religious Workers

This section is a modernisation and renumbering of the previous requirements in relation to religious workers.

New Section 5E Commercial Voluntary Workers

This is a new section dealing with individuals who are commercial volunteers engaged under arrangements to perform work that is or is incidental to the trade or business of the principal. The commercial volunteer will be taken to be a worker employed by the principal unless the principal has an applicable volunteer exemption certificate issued by the Minister.

New Section 5F Public Interest Voluntary Workers

This is a new section dealing with individuals who are public interest volunteers. A public interest volunteer is defined under the legislation and is subject to the Minister making a declaration to that effect. The work performed by the individual is for no reward and considered by the Minister to be in the public interest.

CLAUSE 5 SUBSTITUTION

New Section 6C Compensation for Personal Injury

This section provides that subject to particular provisions within the section a worker who suffers personal injury arising out of or in the course of the workers employment the worker is entitled to compensation. However, with respect to disease a worker who suffers an injury that is caused by a disease must be able to establish a causal relationship between the disease and their employment. That is to say, the workers employment must have substantially contributed to the injury (the disease) for it to be an injury within the meaning of the Act.

New Section 6D When is Compensation not Payable

This section establishes when compensation for injuries is not payable. For example when an injury is intentionally inflicted.

New Section 7 When Payments May be Cumulative

This section defines when compensation payable in relation to an injury may be in addition to any amounts payable under any other provisions of this Act.

**CLAUSE 6 SUBSTITUTION, COMPENSATION LIMITED TO
 TERRITORY WORKERS**

New Section 7A (3) Working Outside the Territory

This section defines when a worker of the territory, working outside the Territory, is or is not entitled to compensation under this Act.

CLAUSE 7 SUBSTITUTION

New Section 8 Journey Claims

This section defines the circumstances where compensation will be paid for an employment-related journey. The new section redefines journey claims so that an employment-related journey commences and concludes at the boundary of the home occupied by the claimant. In addition, the new provisions require that if a claim is made under these provisions the journey to and from the workplace must be by a direct route. The new provisions also make journey claims subject to a test of serious and/or wilful misconduct. Journeys from workplace to workplace are regarded as *at work journeys* and therefore in the event of an accident and injury to a worker are considered to be an injury in the workplace.

**CLAUSE 8 COMPENSATION FOR DEATH OR INCAPACITY
 THROUGH DISEASE**

The effective test for employment-related disease in section 9(1)(b) has changed from employment being a 'contributing factor' to employment being a 'substantial contributing factor'. In making this change the effect of the decisions found in the High Court of Australia (Kennedy Cleaning Services) and in the NSW Court of Appeal (Mercer V ANZ Banking Group) have been specifically excluded. The amendments also mean that the provisions mirror those found in the NSW workers' compensation scheme.

CLAUSE 9 AND 10 COMPENSATION FOR DISEASE

The effective test for employment-related disease in section 9B(1), (2), (3) and (4), from employment being a 'contributing factor' to employment being a 'substantial contributing factor'. In making this change the effect of the decisions found in the High Court of Australia (Kennedy Cleaning Services) and in the NSW Court of Appeal (Mercer V ANZ Banking Group) have been specifically excluded. The amendments also mean that the provisions mirror those found in the NSW workers' compensation scheme.

CLAUSE 11 OMISSION

Sections 10 to 10F are omitted.

CLAUSE 12 SECTIONS 11, 12 AND 13 HAVE BEEN SUBSTITUTED

New Section 11 Action by employer in relation to claims

This section specifies the actions that must be taken by employers in relation to claims. An employer must within seven days of receiving a claim for compensation forward the claim to their insurer. An employer who receives a request from their insurer for information must within seven days supply that information, or if the information is not reasonably obtainable by the employer inform their insurer.

An employer who has received compensation from their insurer must as soon as is practicable pay the compensation to the person entitled to the compensation. A maximum penalty applies for failure to comply unless there was reasonable excuse.

New Section 12 Register of Injuries

This section provides for a register of injuries to be kept in the workplace. Entry into the register by a worker is taken to be notice of an injury to the employer for the purposes of this Act. A worker employed at the workplace may enter the details of an injury into the register on behalf of the injured worker.

A failure by the employer or the employers' representative to keep the register will incur a penalty of up to 50 penalty units.

Updated Section 13 No Contracting Out of Liability under the Act

This section sets out what cannot be contracted out by an agreement, with the exception of agreements by workers prescribed under the regulations.

CLAUSE 13 SECTION 15 IS OMITTED AND SUBSTITUTED.

New section 15 Medical Referees

This section allows the Minister to appoint medical referees under the Act. Medical referees must not act as referees if they have been used as a doctor in relation to the injury. The Minister may set fees for the provision of services as a medical referee.

CLAUSE 14 PART 2A IS OMITTED AND SUBSTITUTED.

New Sections 15A, B, C, D, E Vocational Retraining

These sections deal with the concept and meaning of vocational retraining. This section is a key element in changing the focus and nature of the scheme.

Specifically, the Act now provides for approved vocational retraining providers. vocational retraining, for the injured worker, means the assessment of the needs of the

worker and the provision of appropriate, adequate and timely services for the worker aimed at maintaining the worker in suitable employment or returning the worker to suitable employment.

The regulations allow the Minister to approve a protocol about vocational retraining. Vocational retraining services are taken to be appropriate, adequate and timely if they are in accordance with procedures approved under the regulations.

The provision of vocational retraining to the worker is not taken to be an admission of liability for the workers claim for compensation. A person who is not an approved vocational retraining provider must not pretend to be an vocational retraining provider.

**CLAUSE 15 SECTIONS 16 TO 17D ARE OMITTED SUBSTITUTED
SECTIONS 16, 16A, 16B, 16C, 16D, 17, 17A, B, C, AND D**

New Section 16 Meaning of Compulsory Insurance

This section defines a compulsory insurance policy. Compulsory insurance policy, for the employer, means an insurance policy for an unlimited amount for any liability of the employer under this Act, or independently of this Act, for an injury to, or the death of, each Territory worker employed by the employer; and that complies with this Act. A cover note whilst current is a compulsory insurance policy.

New section 16A Approval and Criteria for the Approval of Insurers

This section allows the Minister to approve an insurer. The Minister may, in accordance with the regulations, approve an insurer for this Act.

The regulations may:

- prescribe the criteria for approving insurers;
- the conditions that may be imposed on the approval of insurers;
- the records to be kept by approved insurers;
- who the records are to be provided to and how they are to be provided;
- how insurance premium calculations by approved insurers may be reviewed;
- how approved insurers' performance may be monitored and reviewed;
- what and when approved insurers must report to the Minister; and
- how and why the approval of an insurer may be revoked.

New Section 16B Suspension or Revocation of Insurers Approval

This section details how an insurer may be fined or have their approval revoked or suspended if they fail to comply with the regulations.

If the approval of the insurer for this Act is revoked or suspended, the new subsection 16C (1) which requires an employer to have a compulsory insurance policy applies in relation to an insurance policy as if the insurer were still approved or the approval not suspended.

The revocation or suspension of the approval of an insurer does not

- (a) annul a pre-revocation policy; or
- (b) affect the liability of the insurer under a pre-revocation policy; or
- (c) affect the liability of the insurer under section 18H (Funds for payments by nominal insurer).

However, the regulations may prescribe when a pre-revocation policy stops being a compulsory insurance policy.

New Section 16C Employers Required to have Insurance

This section requires that an employer, other than a self-insurer, must maintain a compulsory insurance policy with an approved insurer. A cover note may be a compulsory insurance policy only if it is in force for not longer than 30 days.

A cover note is only a compulsory insurance policy if the employer maintained a compulsory insurance policy (other than a cover note) immediately before maintaining the cover note; or the employer was not an employer immediately before beginning to maintain the cover note.

If two or more employers could become liable to pay compensation for the same worker, any of the employers may comply with new subsection 16C(1) in relation to the worker with a joint insurance policy for their joint liability.

New Section 16D Liability of Executive Officers for Offences

This section establishes that if a company offends section 16C then each executive officer of the company is taken to have committed the offence against 16C. This section qualifies that an executive officer has a defence to prosecution under this section if the executive officer establishes that they actively endeavoured to ensure the company complied with section 16C.

New Section 17 No Effect on Other Forms of Insurance

This section applies where an employer, other than a self-insurer, fails to maintain a compulsory insurance policy; but the employer maintains an insurance policy for a liability under this Act.

New Section 17A When Triple Premium Penalty is due to Nominal Insurer

If an employer other than a self insurer fails to maintain a compulsory insurance policy the nominal insurer may recover as a debt from the employer triple the premium that would have been payable by the employer to an approved insurer.

New Section 17B Evidence of Compulsory Insurance

This section covers the establishment of evidence of compulsory insurance. A statement from an approved insurer that there was no compulsory insurance policy

issued by an approved insurer in favour of the employer in force on a stated date, or during a stated period, is evidence of the matter.

New Section 17C Approval to Become Self Insured

This section allows the Minister to exempt an employer from holding compulsory insurance for a stated period. The regulations that apply to the granting of such an exemption may make provision for or in relation to the following:

- (a) how an employer may apply for an exemption;
- (b) the criteria to be considered by the Minister when deciding whether to exempt an employer;
- (c) renewals of exemptions; and
- (d) suspension and revocation of exemptions.

New Section 17D Approved Insurer Must not Refuse to Issue Compulsory Insurance Policy

This section requires that an approved insurer must not refuse to issue a compulsory insurance policy required by an employer under new subsection 16C (1) without the Minister's written consent. An approved insurer must not issue an insurance policy required by an employer for new subsection 16C (1) that is not a compulsory insurance policy.

New Section 17DA Cancellation of a Compulsory Insurance Policy

An approved insurer can only cancel a compulsory insurance policy between themselves and an employer in accordance with the protocol declared under the Act.

CLAUSES 16 COVER NOTES

Section 17E(1) and (2) now states that a cover note that is a compulsory insurance policy has a maximum life of 30 days.

CLAUSE 17 INFORMATION TO BE PROVIDED TO INSURERS

New Section 18 Information for Insurers

This section means an employer must supply information to their approved insurer within the specified timeframes. An employer applying to an insurer for the renewal of a compulsory insurance policy must give the insurer, in relation to the period, all of the relevant information required to work out the premium payable for the renewal of the policy.

New Section 18AA Requirement for Audited Statement of Wages

This section stipulates that if an employer has a compulsory insurance policy, the employer must, following the end of the policy and in any event within 30 days, give the insurer a certificate from a registered auditor. The certificate must state the total wages paid by the employer to Territory workers in the period covered by the policy.

A registered auditor must not knowingly supply false, misleading, or incomplete information with respect to information that is to be supplied to an insurer in a certificate provided to establish compliance with this section.

New Section 18AB Requirement for Statutory Declaration by Employers

This section means that if an employer has a compulsory insurance policy, the employer must, within 14 days after each reporting period, give the insurer a statutory declaration setting out the items required by this section.

New Section 18AC Procedures Following Cancellation

This section requires that in the event that an insurer cancels an employer's compulsory insurance policy, the employer must, within 14 days after the policy is cancelled, give the insurer a certificate from a registered auditor stating the total wages paid by the employer to Territory workers in the period from the start of the policy until the cancellation of the policy.

New Section 18AD Offence by Registered Auditor

This section states that a registered auditor must not knowingly supply false, misleading or incomplete information in a certificate provided for sections 18AA, 18AB, or 18AC. The section sets penalties for this offence.

New Section 18AE Offence for False Swearing

This section sets out penalties for the offence of knowingly providing false information in a statutory declaration used for sections 18, 18AA and 18AB. The section sets out penalties for the offences.

New Section 18AF Restriction on Ability to Employ after Second Offence

This section provides that a person must not employ a Territory worker, or be an executive officer of a corporation that employs a Territory worker, for a period of five years if the person has been convicted of a second or subsequent offence under any of the sections 16C, 16D, 18AA, 18AB, 18AC.

CLAUSE 18 INTERVENTION BY THE NOMINAL INSURER

New Section 18F Notice to Nominal Insurer by Uninsured Employer

This section applies to a person 'the alleged employer' against whom a claim for compensation has been made; and who is not an exempt employer; and who is not a party to a compulsory insurance policy that applies to the claim.

The alleged employer must, not later than 48 hours after the claim is made, give the nominal insurer a copy of the claim. The alleged employer must not make an agreement or admission in relation to the claim unless the nominal insurer consents.

The nominal insurer is entitled to intervene in any arbitration proceeding on the claim as a party. The nominal insurer has the same right of objection to arbitration by a committee as has the employer under Schedule 1.

New Section 18FA Prevention of Backdating of Policy's

This section provides that the nominal insurer may treat a claim for compensation as having been made against the nominal insurer. If, the nominal insurer receives a copy of the claim under new section 18F; or is otherwise satisfied that it is reasonably likely that there is no compulsory insurance policy in force that applies to the claim. These sections are intended to assist in addressing the unacceptable practice of backdating policies.

CLAUSE 19 PAYMENT BY NOMINAL INSURER

Amended Section 18G Nominal Insurer Entitled to Treble Cost of Claim from Uninsured Employer

This amendment makes payments made by the nominal insurer on a claim debts payable by the employer to the nominal insurer. The employer's debt is three times the amount paid by the nominal insurer to settle the claim.

CLAUSE 20 REGULATION TO ALLOW MINISTER TO AUTHORISE PEOPLE

New Section 21AA Minister may Authorise people with Specialist Skills

The section enables the regulations to allow the Minister to authorise people to enter premises and examine records. This includes people with accounting and auditing skills, or specific skills in examining records of wages, wage estimates, wages paid and supporting evidence. The regulations are to prescribe the circumstances in which authorised people may enter premises to examine records.

CLAUSE 21 SUBSTITUTION

New Section 23D Appointment of Inspectors

This section modernises the existing clause in relation to the appointment of inspectors and provides the chief executive with a power to appoint officers of the service who are not inspectors by virtue of the office that they hold as inspectors.

New Section 23E Issue of Identity Cards to Inspectors

This section requires the chief executive to issue identity cards to inspectors and specifies what must appear on the face of the card.

CLAUSE 22 INSERTION

New section 23J Penalty for Obstructing an Inspector

This section creates a penalty if the inspector is obstructed or hindered in the exercise of their duties.

CLAUSE 23 INSERTION PART 6C

New Section 26RA Notice of Reviewable Decisions

This section means that where the Minister makes a reviewable decision, the Minister must give written notice of the decision to each person affected by the decision. A person may apply to the Administrative Appeals Tribunal for review of decisions. The notice must be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeal Tribunal Act 1989*.

New Section 26RB Time for Making Appeal

A person who applies in writing to the Administrative Appeals Tribunal for the review of a decision has 28 days from the date of receiving the decision to lodge the appeal with the tribunal.

CLAUSE 24 SUBSTITUTION

New Section 26RC Confidentiality

This section provides that any information collected for the purpose of the Act or as required by law must be kept confidential by the person who collects it.

New section 26S Time for Commencement of Prosecutions for Offences

This section increases the time allowed to commence a prosecution for an offence against this Act from two years to any time within five years after the commission of the offence. However, a prosecution for an offence against this Act committed before the commencement of this section may only begin at any time within two years after the commission of the offence. This provision expires two years after the commencement of this section.

New section 26T Penalty for Making False or Misleading Statements

This section states that a person must not make a statement knowing that it is false or misleading, the penalties for making false statements are significant. This section does apply to a statement even if it has been verified by statutory declaration.

This section does not apply to statements made in documents filed, in information given, in a court proceeding, or in a document, if the person who made the statement did not know that the document, or information, was to be given in relation to a claim for compensation.

New Section 26U Acts and Omissions of Representatives

This section covers the possibility of acts and omissions by representatives. If it is relevant to prove a person's state of mind about an act or omission, it is enough to

show the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority, and the representative had the state of mind.

An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

New Section 27 Criminal Liability of Officers of Corporation

This section provides that an executive officer of a corporation can be held to have committed an offence under the Act. The section provides the matters, that are considered as a defence to a prosecution.

New Section 27A Ministers Advisory Committee

This section provides that the Minister may establish an advisory committee. The committee is intended to be representative of the parties involved in the workers compensation scheme and include but are not limited to representatives of employers, employees, insurers, service providers, and the judiciary. The role of the committee is purely to advise the Minister.

New section 27B Rules of Court

This section enable the Executive may make rules in relation to procedures for this Act.

New Section 27C Practice Directions by Chief Magistrate

The section allows the Chief Magistrate to issue practice directions for this Act. A practice direction is a notifiable instrument.

New Section 27CA Reference to Previous Act

This section clarifies that any reference to the *Workers' Compensation Act 1951* is a reference to this, selfsame Act.

CLAUSE 26 SUBSTITUTION

Section 30(2) and (3) provides power to make regulations including regulations for carrying out or giving effect to the Act.

New Part 8 Transitional Provisions

This part provides for a range of transitional arrangements and the updating of the legislative style to meet modern practice.

It also ensures that the amended Act applies only to injuries that happen on, or after, the commencement of the Act. The previous Act applies to injuries that happened before the commencement of this Act

CLAUSE 27 DICTIONARY

This section substitutes schedules 1 to 4 and inserts a dictionary. See also section 1A

CLAUSE 28 WORKERS COMPENSATION ACT RENUMBERING

This clause will renumber the Act when it is next republished.

CLAUSE 29 LIMITATION ACT 1985

Clause 29 inserts an amendment into the Limitation Act 1985, numbered as section 16A. The amendment sets out the time limit for a claim for damages at common law. The period in which a claim may be filed has been reduced from 6 years to 3 years.

**CLAUSE 30 MAGISTRATES COURT (CIVIL JURISDICTION) ACT
1982**

Clause 30 amends the *Magistrates Court (Civil Jurisdiction) Act 1982*, by omitting section 497 of the *Magistrates Court (Civil Jurisdiction) Act 1982*.