

2002

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

CIVIL LAWS (WRONGS) AMENDMENT ACT 2002

EXPLANATORY MEMORANDUM

Circulated by authority of

Jon Stanhope MLA
Attorney General

AUSTRALIAN CAPITAL TERRITORY

CIVIL LAWS (WRONGS) AMENDMENT ACT 2002

EXPLANATORY MEMORANDUM

Overview

The *Civil Laws (Wrongs) Amendment Act 2002* amends the *Civil Laws (Wrongs) Act 2002* and the *Road Transport (General) Act 1999*.

The purpose of the amendment Bill is to provide, in relation to Compulsory Third Party (CTP) insurance, a temporary solution to the reaction by the world reinsurance market to the events of 11 September 2001.

Following 11 September 2001, the world's reinsurers arrived at the decision not to provide reinsurance cover with respect to acts of terrorism effective from 1 January 2002.

The amendments contained in the Bill are of a temporary nature. They are intended to last for a period of two years and will expire on 31 December 2004.

With two exceptions, the Bill proposes that there will be no right of action for death or injury arising out of the use of a motor vehicle if the death or injury is caused by an act of terrorism committed before 1 October 2004.

The two exceptions are:

1. someone who commits or promotes the act of terrorism will remain liable to civil action; and
2. workers' compensation entitlements under the *Workers Compensation Act 1951*, and under corresponding Commonwealth, State and Territory laws, will not be affected.

Detail

Part 1 – Preliminary

Clause 1 – Name of Act

This clause names the amendment Act.

Clause 2 – Commencement

This clause provides for the amendments to commence on the day after the Act is notified.

Part 2 – Civil Laws (Wrongs) Act 2002

Clause 3 – Act amended

Specifies that the *Civil Laws (Wrongs) Act 2002* is the Act being amended.

Clause 4 – New Part 3.3

Inserts Part 3.3, Temporary exclusion of liability for terrorism-related risks.

Proposed new section 31A – Meaning of *act of terrorism* for pt 3.3 – provides the definition of an act of terrorism. This definition is identical to the definition inserted in section 30C of the *Workers Compensation Act 1951* by the *Workers Compensation (Acts of Terrorism) Amendment Act 2002* and is essentially drawn from the United Kingdom definition to be found in Part 1 Section 1 of the *Terrorism Act 2000 (UK)*.

Proposed new section 31B – Limitations of liability for acts of terrorism– provides that there will be no right of action for death or injury (or both) arising out of the use of a motor vehicle if the death or injury (or both) are caused by an act of terrorism committed before 1 October 2004, subject to two exceptions:

1. someone who commits or promotes an act of terrorism will remain liable to civil action; and
2. workers' compensation entitlements under the *Workers Compensation Act 1951*, and under corresponding Commonwealth, State and Territory laws, will not be affected.

Proposed section 31B (3) also provides that section 31B overrides section 169(1) of the *Road Transport (General) Act 1999* – Indemnification of insured persons.

Proposed new section 31C – Expiry of pt 3.3 – provides for the expiry of this part of the legislation. Part 3.3 is to expire on 31 December 2004.

Part 3 - Amendments of Road Transport (General) Act 1999

Clause 5 – Act amended

Specifies that the *Road Transport (General) Act 1999* is the Act being amended.

Clause 6 –Sections 171 and 180 (1), new note

A note drawing attention to the temporary abolition of liability for death or injury caused by acts of terrorism arising out of the use of a motor vehicle prior to 1 October 2004 by pt 3.3 of the *Civil Laws (Wrongs) Act 2002* is to be inserted in these sections.

Clause 7 – Expiry of certain notes

Proposed new section 236 provides for the temporary amendments to the *Road Transport (General) Act 1999* to expire on 31 December 2004.