

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY
SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910
WORKMEN'S COMPENSATION (AMENDMENT) ORDINANCE (NO. 2) 1987
ISSUED BY AUTHORITY OF THE MINISTER OF STATE FOR TERRITORIES

No. 24, 1987

The Workmen's Compensation Ordinance 1951 ("the Principal Ordinance") establishes a scheme for compensating workmen who are injured in the course of their employment.

The Workmen's Compensation (Amendment) Ordinance (No. 2) 1987 amends the Principal Ordinance to implement one of the recommendations of the 1983 Working Party on Workmen's Compensation in the ACT which will overcome instances of insurers refusing to pay compensation to injured workmen because employers have understated wage payments with a consequent under payment in premiums. This will be achieved by requiring an employer seeking workmen's compensation insurance to provide an insurer with an auditor's certificate specifying the amount of wages paid in the preceding 12 months and a statutory declaration as to the categories of workmen to whom such wages are paid.

Under the Ordinance an employer is required to supply a certificate from a registered auditor setting out the amount of wages paid to his employees and a statutory declaration setting out the categories of workmen employed by the employer in the following situations:

- (a) to an inspector when the inspector so requires;
- (b) to the insurer when the employer seeks to renew an employer's indemnity policy
- (c) to the insurer within one month of expiry of the period of indemnity;
- (d) to the insurer after cancellation of a policy by the insurer.

Details of the Ordinance are outlined in the Attachment.

WORKMEN'S COMPENSATION (AMENDMENT) ORDINANCE (No.2) 1987

Section 1 cites the Ordinance as the Workmen's Compensation (Amendment) Ordinance (No. 2) 1987.

Section 2 defines the "Principle Ordinance" as the Workmen's Compensation Ordinance 1951.

Section 3 amends section 6 of the Principal Ordinance by introducing after the definition of "overtime" a definition of "registered auditor" as an auditor registered under Division 2 of Part II of the Companies Act 1981.

Section 4 amends section 16 of the Principal Ordinance by:

- (a) introducing a new sub-section 16(2A), which provides that an inspector may, by notice in writing, served upon an employer, require the employer to provide to the inspector, within 28 days:
 - (1) a certificate from a registered auditor stating the total amount of wages paid, during the period or periods specified in the notice, to all workmen employed during that period or those periods: and
 - (2) a statutory declaration setting out the categories of workmen employed by the employer and the total amount of wages paid in respect of each of those categories of workmen;
- (b) introducing, a new sub-section 16(2B), which makes it an offence for a registered auditor to knowingly supply false, misleading or incomplete information in a certificate provided for the purposes of sub-section 16(2A);
- (c) introducing a new paragraph 16(3)(d) which makes it an offence to fail, without reasonable excuse, to comply with a notice served under new sub-section 16(2A).

Section 5 amends section 18 by:

- (a) omitting from sub-section (8) the words "issue or" as an employer seeking a policy of insurance or indemnity for the first time will not have employed workmen during any period relevant to the determination of the premium payable under the policy and therefore cannot provide a statement of wages paid to workmen for the purpose of determining a premium;

- (b) omitting from sub-section (8) the requirement that an employer, applying to an insurer for the renewal of a policy of insurance or indemnity against liability under the Principal Ordinance, shall supply to the insurer a full and correct statement of all wages paid to workmen in his employment and substituting a requirement that an employer, applying to an insurer for the renewal of a policy of insurance or indemnity against liability under the Principal Ordinance, shall supply to the insurer a certificate from a registered auditor stating the total amount of wages paid to workmen and a statutory declaration setting out the categories of workmen employed and the total amount of wages paid in respect of each of those categories during the period relevant to the determination of the premium payable under the policy;
- (c) introducing a new sub-section (8A) which requires that an employer supply an insurer, with whom the employer has taken out a policy of insurance or indemnity against liability under the Principal Ordinance, with a certificate from a registered auditor and a statutory declaration, when required to do so under the term of that policy corresponding to paragraph 11 or 13 of the conditions in the form of the employer's indemnity policy set out in Schedule 3 to the Principal Ordinance;
- (d) introducing new sub-section (8B) which allows the Minister, by notice in the Gazette, to determine categories of workmen for the purposes of the statutory declaration required in paragraph (8)(b) and paragraphs 16(2A)(b) of the Third Schedule to the Principal Ordinance; and
- (e) introducing new sub-section (8C) which makes it an offence for a registered auditor to knowingly supply false, misleading or incomplete information in a certificate provided for the purposes of sub-section (8) or (8A).

Section 6 amends the Third Schedule to the Principal Ordinance by:-

- (a) omitting from paragraph 11 the requirement that an employer provide to an insurer within one month of the expiry of a period of indemnity, a correct account of all wages, salaries and other forms of remuneration paid in that indemnity period. In its place it introduces a requirement that an employer provide to an insurer within one month of the expiry of any period of indemnity a certificate from a registered auditor

stating the total amount of wages paid to workmen employed by the employer and a statutory declaration setting out the categories of workmen employed by the employer and the total amount of wages paid in respect of each of those categories of workmen; and

- (b) omitting from paragraph 13 the requirement that on cancellation of a policy by an insurer the employer furnish the insurer with a statement of wages showing the amount paid up to the time of cancellation and inserting in its place a requirement that the employer supply the insurer with a certificate from a registered auditor stating the total amount of wages paid to workmen employed by the employer and a statutory declaration setting out the categories of workmen employed by the employer and the total amount of wages paid in respect of each of those categories of workmen during the period of indemnity prior to the time of cancellation.

Section 7 provides that sections 5 and 6 apply only in relation to policies of insurance and indemnity issued or renewed after the date of commencement of the amending Ordinance.