

2012

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

WORKERS COMPENSATION (TERRORISM) AMENDMENT BILL 2012

EXPLANATORY STATEMENT

**Presented by
Dr Chris Bourke MLA
Minister for Industrial Relations**

Workers Compensation (Terrorism) Amendment Bill 2012

OUTLINE

After the 11 September 2001 terrorist attacks most insurance companies withdrew products offering coverage for an act of terrorism. Any products covering acts of terrorism that have been placed back on the market have been prohibitively expensive. As a result it is either not possible, or is an unreasonable burden, for employers to gain workers' compensation coverage for injuries arising out of an act of terrorism.

In recognition of these issues Chapter 15 of the *Workers Compensation Act 1951* (the WC Act) was introduced, giving the Government power to establish a temporary reinsurance fund to ensure protection for workers injured as a result of a terrorist incident.

The initial amendment contained a sunset clause of 1 October 2004 but further amendments have extended these protections to apply to injuries sustained through acts of terrorism that occur before 1 April 2012.

The *Workers Compensation (Terrorism) Amendment Bill 2012* proposes amendments to remove any time based limitation on the operation of the Temporary Reinsurance Fund provisions— providing Government with a mechanism establish a temporary reinsurance fund following an act or acts of terrorism which occur now and into the future. The power to establish the fund will continue in perpetuity.

Any reinsurance fund established under Chapter 15 would be of a temporary nature, specifically created to deal with the cost of providing workers injured through a specific terrorist incident access to compensation entitlements under the WC Act. The amendments do not require that any fund established under Temporary Reinsurance Fund provisions be maintained in perpetuity but rather for such time as required to respond to and resolve any related compensation claims.

The *Workers Compensation (Terrorism) Amendment Bill 2012* will establish a review of payments out of a Temporary Reinsurance Fund within 10 years of its establishment to ensure that Territory money is not being held in perpetuity while allowing sufficient time for Insurers to assess what their potential liabilities and, therefore, claims on the fund are.

The amendments ensure that the Government is equipped to provide timely protection, care and support to Territory workers injured as a result of a terrorist incident.

Workers Compensation (Terrorism) Amendment Bill 2012

Detail

Clause 1 — Name of Act

This is a technical clause that names the Act. The name of the Act is the *Workers Compensation (Terrorism) Amendment Bill 2012*

Clause 2 — Commencement

The Act commences on the day following the day the Act is notified on the ACT's Legislation Register.

Clause 3 — Legislation amended

This clause identifies the Act to be amended, namely the *Workers Compensation Act 1951*.

Clause 4 — Payments out of DI fund - Section 166B(2)

This clause amends s 166B(2) to include reference to the new heading of Chapter 15.

Clause 5 — Payments out of DI fund - Section 166B(3)

This clause will remove the sunset clause on these payments.

Clause 6 — Chapter 15 Heading

This clause renames Chapter 15 'Acts of Terrorism'.

Clause 7 — Application of ch 15 to insurers – Section 224(1)(b)

This clause gives the Government enduring power to establish a temporary reinsurance fund to respond to the cost of workers' compensation claims arising as a result of a terrorist incident irrespective of when that incident occurs. The amendment removes any time based limitation on the exercise of this power by Government.

Clause 8 — Terrorism cover temporary reinsurance fund – New Section 227(4)

This clause will introduce amendments to ensure that monies paid into any temporary reinsurance fund remain available to meet the cost of claims made under Chapter 15 and are paid out of the fund in accordance with s 229.

Clause 9 — Entitlement of insurers to reimbursement from temporary fund – section 228(2)(a)

This provision deals with the payment of money from a temporary reinsurance fund established under Chapter 15 following multiple terrorist incidents.

This clause establishes that an insurer is entitled to have their uninsured liability fully reimbursed from the temporary fund for subsequent acts of terrorism that occur within 1 year after the day the first act of terrorism occurred.

Clause 10 — Section 232

This section will remove the reference to the date Chapter 15 expires in recognition that the Government has enduring power to establish a temporary reinsurance fund in accordance with the conditions and provisions established in Chapter 15.

The substituted text will establish that section 229 and any regulations made under section 230(1)(b) be reviewed no more than 10 years after the Temporary Reinsurance Fund is established. The Minister will need to present a report of the review to the Legislative Assembly within 6 months after the day the review is started.

Clause 11 — Chapter 15 (as amended)

This clause will relocate current Chapter 15 to become new part 8.3.

Clause 12 — Dictionary, new definition of act of terrorism

This clause will update the dictionary to the *Workers Compensation Act 1951* to reflect the above amendment.

Clause 13 — Dictionary, definition of insurer

This clause will update the dictionary to the *Workers Compensation Act 1951* to reflect the above amendment to the definition of insurer.

Clause 14 — Dictionary, new definitions

This clause will update the dictionary to the *Workers Compensation Act 1951* to reflect the above amendments.