

2014

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

**JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT
BILL 2014**

SUPPLEMENTARY EXPLANATORY STATEMENT

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JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2014

Supplementary Explanatory Statement

This supplementary explanatory statement provides information about amendments to the Justice and Community Safety Legislation Amendment Bill 2014. The amendments to the Bill are comprised of minor and technical changes to the *Civil Law (Wrongs) Act 2002* and the *Workers Compensation Act 1951*.

Overview of Amendments

The amendments to the Justice and Community Safety Legislation Amendment Bill 2014 reverse amendments introduced in the *Statute Law Amendment Act 2013 (No 2)*. The *Statute Law Amendment Act 2013 (No 2)* changed references to “all males average total earnings” in the *Civil Law (Wrongs) Act 2002* and the *Workers Compensation Act 1951* to “all employees average weekly total earnings.”

The affected provisions set caps on available damages using Australian Bureau of Statistics published figures. The figure for “all males total earnings” is different in ABS publications from the figure for “all employees average weekly total earnings.” The 2013 change inadvertently purported to change the method of calculating caps for damages for lost earnings. No change in damages caps was intended to be introduced by the *Statute Law Amendment Act 2013 (No 2)* as demonstrated by the accompanying explanatory notes in that Act.

These amendments retrospectively correct the inadvertent change, from the date that the *Statute Law Amendment Act 2013 (No 2)* commenced. The amendment to section 98 of the *Civil Law (Wrongs) Act 2002* changes section 98(3)’s reference to “all employees average weekly” to “all males.” The amendment to the *Workers Compensation Act 1951* changes a reference “all employees average weekly” in the dictionary to “all males”. These amendments are being made retrospectively on the basis that no substantive change in the affected provisions was ever considered or intended by Government in proposing the legislation or by the Legislative Assembly in passing the legislation.

Human Rights Considerations

The amendments to the Justice and Community Safety Bill 2014 are strictly technical and do not engage human rights. They reverse inadvertent changes to the methods for calculating damages in civil claims.

Clause Notes

Amendment 1 Proposed new clause 2 (1) (ba)

This amendment identifies the *Civil Law Wrongs Act 2002* as a piece of legislation being amended by the Justice and Community Safety Legislation Amendment Bill 2014.

Amendment 2 Proposed new clause 2 (1) (e)

This amendment identifies the *Workers Compensation Act 1951* as a piece of legislation being amended by the Justice and Community Safety Legislation Amendment Bill 2014.

Amendment 3 Proposed new clause 2 (4)

This amendment specifies that the amendments in Amendment 4 and Amendment 5 commence retrospectively, immediately after the commencement of the *Statute Law Amendment Act 2013 (No 2)*. The effect will be that the changes in reference to “all employees average weekly” from “all males” will be taken to have never occurred.

Amendment 4 Proposed new part 1.2A

This amendment inserts amendments to the *Civil Law (Wrongs) Act 2002* to change the reference from “all employees average weekly” in section 98 to “all males.”

Amendment 5 Proposed new part 1.9

This amendment inserts amendments to the *Workers Compensation Act 1951* to change the reference from “all employees average weekly” in the dictionary to “all males.”