

AUSTRALIAN CAPITAL TERRITORY

**Workers Compensation Supplementation Fund
Amendment Bill 2002**

EXPLANATORY MEMORANDUM

**Circulated by authority of the
Minister for Industrial Relations**

Overview

The *Workers Compensation Supplementation Fund Act 1980* establishes a 'safety net' fund to ensure that if an approved workers' compensation insurer goes into liquidation or otherwise cannot meet its liabilities, workers who are injured in workplaces covered by policies with that insurer still receive appropriate compensation for their injuries.

The Act allows the collection of a surcharge on workers' compensation premiums to provide cash reserves to the fund. In its existing form, the *Workers Compensation Supplementation Fund Act 1980* only allows for the surcharge to be paid annually with premiums (and on adjustment of annual premiums).

This is not consistent with modern practices within the insurance industry, which allow for payment of premiums on a more flexible basis (for instance on a quarterly, monthly or weekly basis).

This Bill amends the *Workers Compensation Supplementation Fund Act 1980* to ensure that a surcharge for the purposes of the fund can be collected on the same basis as workers' compensation premiums, and to ensure that employers can spread the costs of the surcharge over the course of a year.

1 Name of Act

This is a formal provision specifying the short title of the Act.

2 Commencement

This is a formal provision specifying when the Act commences operation.

3 Act amended

This is a formal provision specifying the name of the Act that is amended.

4 Section 22(2)

This provision deletes existing subsection 22(2) and substitutes new subsections 22(2) and 22(2A).

New subsection 22(2) brings uniformity and certainty to the method of calculation and collection of the prescribed surcharge. The surcharge will now be a percentage of the 'billed underwritten premium'. The new subsection specifies that the rate of the surcharge is 10% of the premium, unless the Minister determines that the rate of the surcharge should be less than 10%.

Previous legislative references dealing with how the surcharge should be charged and collected have been open to interpretation. Insurers were uncertain as to whether they should be applying the surcharge to collected, billed or earned premium. These provisions provide certainty.

Billed underwritten premium is the premium written on the anticipated wages for the forthcoming or prospective year.

New subsection 22(2A) specifies that the applicable surcharge rate is the rate that was in force at the time a premium or premium instalment payment was made, or at the time the premium or premium instalment was due to be paid, if payment is late.

5 Section 22(4)

This provision deletes existing subsection 22(4) and substitutes new subsections 22(4) and 22(5).

New subsection 22(4) provides that an employer must pay a prescribed surcharge at the same time that it pays the premium for its workers' compensation insurance policy.

New subsection 22(5) provides that if an employer pays the premium for its workers' compensation policy by instalments, the employer must pay a surcharge under the Act in corresponding instalments.

The new provision includes notes giving six examples of how payments may be made as guidance.

7 Section 23

This provision deletes existing section 23 and substitutes a new section.

New section 23 deals with how ‘exempt employers’ can pay a surcharge for the purposes of the Act. ‘Exempt employers’ are self-insurers under the *Workers Compensation Act 1951*.

An exempt employer must pay a surcharge amount that would have been payable under the Act if the employer was not exempted under the *Workers Compensation Act 1951*. The new section allows exempt employers to pay the surcharge on an annual basis or in instalments.