

2002

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ADVENTURE ACTIVITIES (LIABILITY) BILL 2002

EXPLANATORY MEMORANDUM

Circulated by authority of Mr Brendan Smyth MLA

ADVENTURE ACTIVITIES (LIABILITY) BILL 2002

Outline

This is a bill for an Act to regulate compensation in relation to the death or injury of people taking part in certain adventure activities. It will also implement a regulatory regime for adventure activity operators. The bill is a part of the suite of reform bills aimed at addressing the current crisis in personal injury liability insurance.

Clause Notes

Part 1 (Clauses 1 – 6)

These clauses cover formal requirements which set out the name of the Act and its commencement provisions and defines the terms “adventure activity” and “serious injury”

Part 2 (Clauses 7 – 9)

This part sets out the purpose (clause 7), application (clause 8) and principal objects (clause 9) of the Act.

Part 3 (Clauses 10 – 16)

This part sets out the regulatory regime for adventure activity operators. Clause 10 deals with the application for approval as an operator, clauses 11 & 12 deal with the approval process itself while clause 13 sets out when the approval takes effect.

Clause 14 sets the term of approval as 5 years.

Clause 15 allows for variations to the approval by the Minister.

Clause 16 gives the minister the power to cancel approval under certain circumstances.

Part 4 (Clauses 17 – 30)

This part explains how damages in relation to death or serious injury are assessed.

Division 4.1 (clauses 17 – 18) sets out key concepts for the part.

Clause 17 sets out definitions for “damages”, “insurer” and “medical report”.

Clause 18 determines how an assessment for a degree of impairment for the part is made using AMA guidelines.

Division 4.2 (clause 19) limits entitlement to damages to the provisions of Part 4.

Division 4.3 (clauses 20 – 30) explains the assessment of degree of injuries.

Clause 20 sets out the entitlement to bring proceedings
Clause 21 sets out the process whereby an injured person can request an assessment.
Clause 22 allows an insurer to refuse to provide an assessment if the injury has not stabilised.
Clause 23 sets out the unreasonable refusal to submit to medical examination as a result of a request under clause 21.
Clause 24 defines a serious injury as one where the degree of impairment is 30% or more.
Clause 25 sets a time limit of 4 months for an insurer to provide an assessment or reasons for the refusal of an assessment.
Clause 26 sets out the consequences of failing to give notice of assessment.
Clause 27 determines the admissibility of medical reports and other documents.
Clause 28 sets out entitlements to bring proceedings for damages.
Clause 29 sets out the regime under which awards for damages are awarded under the Act.
Clause 30 applies the part to the operator if there is no insurer.

Part 5 (Clauses 31 – 35)

This part contains miscellaneous clauses.

Clause 31 allows for a review of ministerial decisions made under sections 11(2), 11(5), or 15(5) by the Administrative Appeals Tribunal.
Clause 32 sets out how notification of decisions are made.
Clause 33 allows the minister to set fees for the Act.
Clause 34 allows the minister to approve forms for the Act.
Clause 35 allows the Executive to make regulations for the Act.

Schedule 1

This schedule lists approved adventure activities.

Dictionary

The dictionary defines terms used in the Act.