



Australian Capital Territory

Statute Law Amendment Act 2019

A2019-42

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Australian Capital Territory

Statute Law Amendment Act 2019

A2019-42

An Act to amend legislation for the purpose of statute law revision, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Statute Law Amendment Act 2019*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the 14th day after its notification day:
- schedule 1, part 1.4
 - schedule 1, part 1.6
 - schedule 3, part 3.19.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Schedule 1, part 1.4 (Motor Accident Injuries Act 2019) and schedule 3, part 3.19 (Motor Accident Injuries Act 2019) commence on the commencement of the [Motor Accident Injuries Act 2019](#), section 3.
- (3) Schedule 1, part 1.6 (Public Sector Workers Compensation Fund Act 2018) commences 124 days after this Act's notification day.

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

4 Purpose of Act

The purpose of this Act is to improve the quality of the statute law of the Territory by amending legislation for the purpose of statute law revision.

5 Legislation amended—schs 1-3

This Act amends the legislation mentioned in schedules 1 to 3.

Schedule 1 **Minor amendments**

(see s 5)

Part 1.1 **Cemeteries and Crematoria Act 2003**

[1.1] Section 28A (1)

before

manage public cemeteries and crematoria

insert

develop, build and

Explanatory note

This amendment inserts words to clarify the functions of the cemeteries authority. Section 28A (1) currently states ‘the functions of the cemeteries authority are to effectively and efficiently manage public cemeteries and crematoria for which the authority has been appointed as the operator by the Minister’. As currently drafted, it is unclear whether section 28A (1) would allow the authority to develop and build a public cemetery or crematorium. This amendment clarifies that the functions of the cemeteries authority include developing and building public cemeteries and crematoria.

[1.2] New section 51 (2) (ba)

insert

(ba) the opening and closing of cemeteries and crematoria;

Explanatory note

This amendment inserts a new paragraph into the regulation-making power of the *Cemeteries and Crematoria Act 2003* to include express provision about opening and closing a cemetery or crematorium. Currently, the Act provides the Executive with a general regulation-making power under section 51 (1) while section 51 (2) mentions several matters a regulation may make provision in relation to. While section 51 (2) (b) mentions ‘the conduct of cemeteries and crematoria’ as such a matter, it is unclear whether ‘conduct’ is broad enough to enable a regulation to be made about opening or closing a cemetery or crematorium. This amendment makes it clear that the Executive may make regulations in relation to the opening and closing of cemeteries and crematoria.

Part 1.2 Financial Management Act 1996

[1.3] Section 37 (1) and (2)

substitute

- (1) Unless provided elsewhere under this Act or another territory law, an amount must not be paid out of the territory banking account except under an appropriation to a banking account of a territory entity.

Examples—provided elsewhere

- 1 this Act, s 38 and s 58
- 2 the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*, s 80
- 3 the *Public Sector Workers Compensation Fund Act 2018*, s 14
- 4 the *Territory Superannuation Provision Protection Act 2000*, s 11

Explanatory note

Section 37 (1) currently states that ‘an amount must not be paid out of the territory banking account except under an appropriation to a banking account of a territory entity’. Section 37 (1) is currently subject to section 37 (2), which lists a number of provisions that are exceptions to section 37 (1). These exceptions are about transfers between the territory banking account and certain directorate banking accounts to facilitate investment and the payment of interest on certain investments of public money, which may be made without further appropriation.

Section 37 (2) has not been kept up-to-date and fails to mention several other provisions that are exceptions to section 37 (1). This amendment updates section 37 (1) and (2) by replacing the specific exceptions in section 37 (2) with a general exception in section 37 (1), and mentioning some exceptions as examples. This will ensure any future exceptions to section 37 (1) will be covered without the need to amend section 37.

[1.4] Section 38 (4)

omit

Interest received

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.5] Section 38 (5)

substitute

- (5) Any fees or expenses reasonably incurred in making or managing an investment of public money may be deducted from the investment.

Explanatory note

This amendment updates the provision in line with current administrative practice. Section 38 (5) currently refers to an investment that is made or managed for the Territory by ‘an entity other than a directorate’. However, current administrative practice is that an investment may be managed by a directorate as well as an entity other than a directorate, such as an external fund manager. This amendment removes the reference to ‘an entity other than a directorate’, meaning that an investment of public money may be made or managed for the Territory by any entity, including a directorate.

Section 58 (5) also currently states that an entity may deduct fees and expenses for making or managing an investment from ‘the interest received by the entity for the investment’. This is problematic in that an entity making or managing an investment for the Territory does not actually receive interest, and in many instances there is no interest actually paid (if, for instance, there is a dividend reinvestment plan in place for the investment). This amendment clarifies that fees and expenses reasonably incurred for making or managing an investment may be deducted from the investment as a whole, not just from any interest received for the investment.

[1.6] Section 38 (6)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.7] Section 38 (8)

omit

Explanatory note

This amendment omits a redundant provision. Under section 38 (6), the Treasurer may decide the amounts of returns from investments that are to be credited to directorate banking accounts. Under section 38 (7), the amounts decided by the Treasurer may be paid from the territory banking account without further appropriation. Section 38 (8) currently states ‘However, the total of the amounts paid under subsection (7) must not exceed the total of the interest received from investments under this section’. Subsection (8) is redundant because the amounts paid under subsection (7) are by necessity already limited to the amounts of returns received from investments under subsection (6).

[1.8] Section 38 (9) and (10)

omit

Explanatory note

This amendment omits provisions that are redundant. Section 38 (9) currently states that the *Financial Management Act 1996* (the FMA), section 38 does not apply to money held in a superannuation banking account (as defined under section 38 (10), which is a signpost definition to the *Territory Superannuation Provision Protection Act 2000*, section 7) or a PSWC fund banking account (as defined under the *Public Sector Workers Compensation Fund Act 2018*, section 9). However, section 38 applies to money held in ‘directorate banking accounts’ (see section 38 (1)) and a superannuation banking account and a PSWC fund banking account are both directorate banking accounts.

Section 38 (9) was originally inserted by the *Territory Superannuation Provision Protection Bill 2000*, schedule, as new section 38 (7). The explanatory statement for the new subsection states ‘amendments are required as the investment of superannuation funds will no longer be subject to section 38, as it is provided for in the *Territory Superannuation Provision Protection Bill 2000*’. However, on the commencement of the *Territory Superannuation Provision Protection Act 2000* (the TSPP Act), section 38 already applied to ‘departmental banking accounts’ and the *TSPP Act*, section 7 (2), states ‘A superannuation banking account is a departmental banking account’.

This anomaly has persisted and creates confusion across the statute book. For instance, section 38 (9) is in direct conflict with the *Public Sector Workers Compensation Fund Act 2018* (the PSWC Fund Act), section 14 (1), note, which states ‘the Treasurer may invest an amount from a PSWC fund banking account in an investment mentioned in the *Financial Management Act 1996*, section 38’. As with a superannuation banking account, a PSWC fund banking account is a ‘directorate banking account’ (see the *PSWC Fund Act*, section 9 (2)) and the *FMA*, section 38 applies to directorate banking accounts (see *FMA*, section 38 (1)).

This amendment clarifies the original intention of the *FMA*, section 38, to apply to directorate banking accounts by omitting section 38 (9) and (10).

[1.9] Section 58 (1) (b)

omit

Explanatory note

This amendment omits a redundant paragraph. Section 58 (1) (b) currently permits funds of a territory authority to be invested ‘in Territory, State or Commonwealth securities’. However, this is already covered by section 58 (1) (c), which permits funds of a territory authority to be invested ‘by the Treasurer, for the territory authority, in an investment mentioned in section 38 (1) (a) to (e)’. Under section 38 (1) (d), the Treasurer may invest funds ‘in Territory, State or Commonwealth securities’.

[1.10] Section 58 (4)

omit

Interest received by the Treasurer for

substitute

Returns received by the Territory from

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.11] Section 58 (5)

substitute

- (5) Any fees or expenses reasonably incurred in making or managing an investment of funds of a territory authority may be deducted from the investment.

Explanatory note

This amendment updates the provision in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.12] Section 58 (6)

omit

Interest that is

substitute

Returns that are

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.13] Section 58 (7)

substitute

- (7) If returns to be paid to a territory authority are paid into the territory banking account under subsection (6), the returns may be paid to the authority from the territory banking account without further appropriation.

Explanatory note

This amendment updates the provision to bring the language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.14] Dictionary, definition of *interest*

omit

Explanatory note

This amendment omits a definition that is made redundant as a result of another amendment (see explanatory note for amendment 1.16 for additional information).

[1.15] Dictionary, definition of *public money*, par (f) (ii)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.16] Dictionary, new definition of *returns*

insert

returns, in relation to an investment, includes interest, dividends, capital gains, distributions and any other financial return on the investment.

Explanatory note

This amendment inserts a new dictionary definition in line with current administrative practice. The *Financial Management Act 1996* currently refers to ‘interest’ received from investments of public money. The dictionary defines ***interest*** to include ‘a dividend and any other financial return on a deposit, loan or other investment’. However, the ordinary meaning of ‘interest’ would not usually include returns on investments such as dividends, capital gains or distributions. This amendment inserts a new definition of ***returns*** to include interest, dividends, capital gains, distributions and any other financial return on an investment.

Part 1.3 Lifetime Care and Support (Catastrophic Injuries) Act 2014

[1.17] Section 72, new definition of *returns*

insert

returns, in relation to an investment—see the *Financial Management Act 1996*, dictionary.

Explanatory note

This amendment inserts a new definition in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.18] Section 78 (d)

omit

interest from time to time accruing

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.19] Section 80 (1) (a) and (b)

substitute

- (a) by the Treasurer, for the LTCS fund banking account, in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e); or
- (b) in any other way prescribed by the LTCS fund investment guidelines.

Explanatory note

This amendment updates the provision to clarify that an amount in an LTCS fund banking account that is not immediately needed for a purpose mentioned in section 79 may be invested by the Treasurer for the account in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e) (see explanatory note for amendment 1.8 for additional information).

This amendment also corrects an incorrect term. Under section 81 (1), the Treasurer may make guidelines (the *LTCS fund investment guidelines*). The term ‘LTCS investment guidelines’ currently used in section 80 (1) (b) is incorrect and is not used anywhere else in the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*.

[1.20] New section 80 (1A)

insert

- (1A) For subsection (1) (a), the investment must be consistent with any investment prescribed by the LTCS fund investment guidelines.

Explanatory note

This amendment inserts a provision to ensure any investment by the Treasurer for an LTCS fund banking account is consistent with any LTCS fund investment guidelines, in line with current administrative practice.

[1.21] Section 80 (3)

omit

Explanatory note

This amendment omits an unnecessary provision. As currently drafted, section 80 (3) states that ‘any repayment of amounts invested from an LTCS fund banking account must be paid into an LTCS fund banking account’. Any amount transferred from an LTCS fund banking account for investment purposes still belongs to the LTCS fund (see sections 76 (1) and 80 (2)), making it redundant to state that any repayment of amounts transferred must be to an LTCS fund banking account.

[1.22] Section 80 (4)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.23] Section 80 (5) and (6)

substitute

- (5) Any fees or expenses reasonably incurred in making or managing an investment of an amount from an LTCS fund banking account may be deducted from the investment.

Explanatory note

This amendment omits current section 80 (5) and (6) by substituting with a new subsection (5) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.24] Section 80 (7)

omit

Interest that is to

substitute

Returns that must

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.25] New section 80 (8)

insert

- (8) If returns to be paid to an LTCS fund banking account are paid into the territory banking account under subsection (7), the returns may be paid to the LTCS fund banking account from the territory banking account without further appropriation.

Explanatory note

This amendment inserts a new subsection to clarify that returns on investments may be paid from the territory banking account to an LTCS fund banking account without an appropriation. This new provision mirrors the amendments to the *Financial Management Act 1996*, section 58 (7).

[1.26] Section 82 heading

substitute

82 Returns on amounts of LTCS levy

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.27] Section 82 (1) (b)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.28] Section 82 (2)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.29] Section 82 (3) and (4)

substitute

- (3) Any fees or expenses reasonably incurred in making or managing an investment of an amount from an LTCS levy may be deducted from the investment.

Explanatory note

This amendment omits current section 82 (3) and (4) by substituting with a new subsection (3) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.30] Section 83B (3) (c)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.31] Dictionary, new definition of *returns*

insert

returns, in relation to an investment, for division 10.1 (Funding the LTCS scheme)—see section 72.

Explanatory note

This amendment inserts a new signpost definition as a result of another amendment (see explanatory note for amendment 1.17 for additional information).

Part 1.4 Motor Accident Injuries Act 2019

[1.32] Section 76 (1) (a) (vii)

omit

Explanatory note

This amendment omits a subparagraph as a consequence of changes to sections 96 and 97 by other amendments (see explanatory note for amendment 1.35 for additional information).

[1.33] Section 76 (1) (b) (i)

substitute

- (i) any contribution paid or payable on behalf of the person by the person's employer to a superannuation scheme for the benefit of the person;

Explanatory note

This amendment restores the substance of subparagraph (i) as it appeared in proposed section 76 (1) (b) (i) in the *Motor Accident Injuries Bill 2019* before it was changed by Assembly amendment. The amendment is consequential on changes to sections 96 and 97 by other amendments (see explanatory note for amendment 1.35 for additional information).

[1.34] Section 76 (2)

omit

Explanatory note

This amendment omits a subsection as a consequence of changes to sections 96 and 97 by other amendments (see explanatory note for amendment 1.35 for additional information).

[1.35] Section 96, definition of *N*, except note

substitute

N means—

- (a) if *P* is \$100 AWE indexed or less—1.0; or
- (b) if *P* is more than \$100 AWE indexed but less than \$800 AWE indexed— $1.0 + \frac{SG}{100}$; or
- (c) if *P* is \$800 AWE indexed or more—0.95.

Explanatory note

Section 96 sets out the formula for working out an injured person's entitlement to income replacement benefits for each week the person is entitled to the benefits during the first payment period. This amendment revises the formula to include a superannuation component for low income earners. The component is based on the superannuation guarantee rate set out in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 19.

The purpose of the amendment is to give effect to the intention of 3 Assembly amendments to section 76 (the *Assembly amendments*) moved during the debate of the *Motor Accident Injuries Bill 2019*. Those amendments intended to include employer superannuation contributions in the definition of *gross income* for an injured person with a pre-injury income of less than \$800 AWE indexed. However, there are several technical issues with those amendments.

For the purpose of working out an injured person's entitlement to income replacement benefits following a motor accident, the person's gross income from employment and net income from self-employment must be calculated to determine the person's pre-injury income. As a result of the Assembly amendments, the definition of *gross income* includes pre-injury income, which results in a circular definition. Pre-injury income from employment is based on the gross income an injured person was paid in the 52 weeks before the motor accident. As a consequence of the Assembly amendments, calculating the amounts paid or payable by an employer to a superannuation fund on behalf of the injured person will be complicated.

The Assembly amendments also refer to pre-injury income being AWE adjusted. However, an AWE adjustment to pre-injury income is only made on the first adjustment day after pre-injury income is determined, and not when first calculating pre-injury income.

This amendment will correct those issues while still giving effect to the intention of the Assembly amendments.

[1.36] Section 96, definition of *N*, new example

after the note, insert

Example—working out *N*, par (b)

Kristin is injured in a motor accident on 1 March 2021. Because of her injuries, Kristin is unable to return to her part-time job as a teacher’s assistant at Lyneham Primary School for 8 weeks following the accident. Kristin does not perform any other paid work during the 8 weeks.

Kristin gives the relevant insurer for the motor accident a letter from her employer stating that Kristin’s annual salary at the time of the motor accident was \$36 500 and that Kristin had been a part-time employee at Lyneham Primary School for 18 months before the accident.

The relevant insurer for the motor accident calculates Kristin’s gross income for the 52 weeks before the accident as follows:

$$\$36\,500 \times \frac{364}{365}$$

Kristin’s gross income for the 52 weeks before the motor accident is \$36 400 and her pre-injury income is \$700.

Kristin also gives the relevant insurer a copy of the last payslip she received from her employer before the motor accident, which shows that employer contributions were payable to her chosen superannuation fund for the 52 weeks before the motor accident. The superannuation charge number for the 2020-21 year is 9.5%.

In working out the amount of income replacement benefits Kristin is entitled to each week, *N* is calculated as follows:

$$N = 1 + \frac{9.5}{100}$$

N is therefore 1.095. Using the formula set out in subsection (1), the amount of income replacement benefits payable to Kristen for each week during the first payment period after the motor accident that Kristin is entitled to income replacement benefits is calculated as follows:

$$\$700 \times 1.095 = \$766.50$$

Explanatory note

This amendment inserts an example to illustrate how to work out the amount of income replacement benefits to be paid to a person injured in a motor accident who is on a low income, taking into account the superannuation component. This amendment is consequential on changes made to section 96 by other amendments (see explanatory note for amendment 1.35 for additional information).

[1.37] New section 96 (2)

insert

(2) In this section:

SG, for the factor *N*, paragraph (b), means—

- (a) if superannuation contributions were paid or payable to a superannuation scheme on behalf of the injured person by an employer of the injured person during the 52 weeks before the motor accident—the superannuation guarantee charge number set out in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 19 (2) for the year in which the contributions were paid or payable; or
- (b) if no superannuation contributions were paid or payable to a superannuation scheme on behalf of the injured person by an employer of the injured person during the 52 weeks before the motor accident—0.

Explanatory note

This amendment is consequential on the amendment of the factor, *N*, in section 96 by another amendment (see explanatory note for amendment 1.35 for additional information).

[1.38] Section 97, definition of *N*, except note

substitute

N means—

- (a) if *P* is \$100 AWE indexed or less—1.0; or
- (b) if *P* is more than \$100 AWE indexed but less than \$800 AWE indexed— $1.0 + \frac{SG}{100}$; or
- (c) if *P* is at least \$800 AWE indexed and not more than \$1 000 AWE indexed—0.95; or
- (d) if *P* is more than \$1 000 AWE indexed—0.8.

Explanatory note

Section 97 sets out the formula for working out an injured person's entitlement to income replacement benefits for each week the person is entitled to the benefits during the second payment period. This amendment revises the formula to include a superannuation component for low income earners. The component is based on the superannuation guarantee rate set out in the *Superannuation Guarantee (Administration) Act 1992* (Cwlth), section 19.

This amendment corrects issues arising as a consequence of 3 Assembly amendments to section 76 moved during the debate of the *Motor Accident Injuries Bill 2019*. This amendment will correct those issues while still giving effect to the purpose of the Assembly amendments. The Assembly amendments to section 76 are reversed by other amendments (see explanatory note for amendment 1.35 for additional information).

[1.39] New section 97 (2)

insert

- (2) In this section:

SG, for the factor *N*, paragraph (b)—see section 96 (2).

Explanatory note

This amendment is consequential on the amendment of the factor, *N*, in section 97 by another amendment (see explanatory note for amendment 1.35 for additional information).

[1.40] Section 145, definition of *private medical examiner*, paragraph (b)

omit

qualifications or experience

substitute

qualifications and experience

Explanatory note

Private medical examiner is defined for the purposes of division 2.6.3. Under the current definition, a private medical examiner for a person injured in a motor accident claim must be a doctor who meets the requirements under the WPI assessment guidelines to conduct WPI assessments and has qualifications or experience relevant to the nature of the injured person's injuries.

The WPI assessment guidelines under the Act will require a person assessing whole person impairment to have the qualifications, training and experience relevant to the body system being assessed.

This amendment revises the definition to require a private medical examiner to have both qualifications and experience that are relevant to the nature of an injured person's injuries.

Part 1.5 Public Health Act 1997

[1.41] Section 138 (2) (c)

omit

Explanatory note

This amendment omits a redundant paragraph. Under section 138 (2) (c), the Executive may make regulations in relation to ‘cervical cytology’. This amendment proposes to omit section 138 (2) (c) as cervical cytology is now a Commonwealth responsibility.

The *National Cancer Screening Register Act 2016* (Cwlth) established the authority to implement and maintain a National Cancer Screening Register (NCSR). The NCSR replaces the previously separate State and Territory cervical screening registers, including the ACT Cervical Cytology Register.

The *Public Health Amendment Regulation 2017 (No 1)* and the *Public Health Amendment Regulation 2019 (No 1)* amended the *Public Health Regulation 2000* to omit part 3 (Cervical cytology register) and updated any references to cervical cytology to facilitate a phased transition from the ACT Cervical Cytology Register to the NCSR. This transition is now complete and the ACT Cervical Cytology Register has been decommissioned. This means there is no longer any need for the Executive to be able to make regulations about cervical cytology, making section 138 (2) (c) redundant.

Part 1.6 Public Sector Workers Compensation Fund Act 2018

[1.42] Section 11 (d)

omit

interest earned

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.43] Section 14 (1) (a) and (b)

substitute

- (a) by the Treasurer, for the PSWC fund banking account, in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e); or

Explanatory note

This amendment updates the provision to clarify that an amount in a PSWC fund banking account that is not immediately needed for a purpose mentioned in section 12 may be invested by the Treasurer for the account in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e) (see explanatory note for amendment 1.8 for additional information).

[1.44] Section 14 (1), note

omit

Explanatory note

This amendment omits a redundant note. The section 14 (1) note currently states that ‘the Treasurer may also invest an amount in a PSWC fund banking account in an investment mentioned in the *Financial Management Act 1996*, section 38’. Section 14 (1) (a) will be amended to provide what is currently stated in the note, making the note obsolete (see explanatory note for amendment 1.43 for additional information).

[1.45] New section 14 (1A)

insert

- (1A) For subsection (1) (a), the investment must be consistent with any investment prescribed by a PSWC fund investment guideline.

Explanatory note

This amendment inserts a provision to ensure any investment by the Treasurer for a PSWC fund banking account is consistent with any PSWC fund investment guidelines, in line with current administrative practice.

[1.46] Section 14 (3)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.47] Section 14 (4) and (5)

substitute

- (4) Any fees or expenses reasonably incurred in making or managing an investment of an amount from a PSWC fund banking account may be deducted from the investment.

Explanatory note

This amendment omits current section 14 (4) and (5) by substituting with a new subsection (4) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.48] Section 14 (6)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.49] New section 14 (7)

insert

- (7) If returns to be paid to a PSWC fund banking account are paid into the territory banking account under subsection (6), the returns may be paid to the PSWC fund banking account from the territory banking account without further appropriation.

Explanatory note

This amendment inserts a new subsection to clarify that returns on investments may be paid from the territory banking account to a PSWC fund banking account without an appropriation. This new provision mirrors the amendments to the *Financial Management Act 1996*, section 58 (7).

[1.50] Section 15 heading

substitute

15 Returns on amounts appropriated for PSWC fund

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.51] Section 15 (1) (b)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.52] Section 15 (2)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.53] Section 15 (3) and (4)

substitute

- (3) Any fees or expenses reasonably incurred in making or managing an investment of an amount from a public sector workers compensation appropriation may be deducted from the investment.

Explanatory note

This amendment omits current section 15 (3) and (4) by substituting with a new subsection (3) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.54] Dictionary, new definition of *returns*

insert

returns, in relation to an investment—see the *Financial Management Act 1996*, dictionary.

Explanatory note

This amendment inserts a new definition in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

Part 1.7 Territory Superannuation Provision Protection Act 2000

[1.55] Section 11 (1) (a) to (c)

substitute

- (a) by the Treasurer, for the superannuation banking account, in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e); or
- (b) in any investment prescribed by a superannuation management guideline.

Explanatory note

This amendment updates the provision to clarify that an amount in a superannuation banking account that is not immediately needed for a purpose mentioned in section 9 (a) to (e) may be invested by the Treasurer for the account in an investment mentioned in the *Financial Management Act 1996*, section 38 (1) (a) to (e) (see explanatory note for amendment 1.8 for additional information).

This amendment also corrects an incorrect term. Under section 16 (1), the Treasurer may make superannuation management guidelines. The term ‘superannuation investment guideline’ is incorrect and is not used anywhere else in the *Territory Superannuation Provision Protection Act 2000*.

[1.56] New section 11 (1A)

insert

- (1A) For subsection (1) (a), the investment must be consistent with any investment prescribed by a superannuation management guideline.

Explanatory note

This amendment inserts a provision to ensure any investment by the Treasurer for a superannuation banking account is consistent with any superannuation management guidelines, in line with current administrative practice.

[1.57] Section 11 (3)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.58] Section 11 (4) and (5)

substitute

- (4) Any fees or expenses reasonably incurred in making or managing an investment of an amount from a superannuation banking account may be deducted from the investment.

Explanatory note

This amendment omits current section 11 (4) and (5) by substituting with a new subsection (4) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.59] Section 11 (6)

omit

Interest that is to

substitute

Returns that must

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.60] New section 11 (7)

insert

- (7) If returns to be paid to a superannuation banking account are paid into the territory banking account under subsection (6), the returns may be paid to the superannuation banking account from the territory banking account without further appropriation.

Explanatory note

This amendment inserts a new subsection to clarify that returns on investments may be paid from the territory banking account to a superannuation banking account without an appropriation. This new provision mirrors the amendments to the *Financial Management Act 1996*, section 58 (7).

[1.61] Section 12 heading

substitute

12 Returns on amounts appropriated for superannuation

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.62] Section 12 (1) (b)

omit

interest

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.63] Section 12 (2)

omit

Interest

substitute

Returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.64] Section 12 (3) and (4)

substitute

- (3) Any fees or expenses reasonably incurred in making or managing an investment of an amount from a superannuation appropriation may be deducted from the investment.

Explanatory note

This amendment omits current section 12 (3) and (4) by substituting with a new subsection (3) in line with current administrative practice (see explanatory note for amendment 1.5 for additional information).

[1.65] Section 13

omit

interest earned

substitute

returns

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.66] Section 15 (2)

omit

Interest on an amount invested as mentioned in subsection (1) that is paid

substitute

Returns on an amount invested as mentioned in subsection (1) that are paid

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.67] Section 15 (3)

omit

Interest that is to be paid

substitute

Returns that are to be paid

Explanatory note

This amendment updates language in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

[1.68] Dictionary, definition of *interest*

omit

Explanatory note

This amendment omits the definition of a term that is no longer used in the Act.

[1.69] Dictionary, definition of *prescribed*

omit

Explanatory note

This amendment omits the definition of a term that no longer needs to be defined for the Act because new section 11 (1) (b) and (1A) will state that ‘prescribed’ is ‘prescribed by a superannuation management guideline’.

[1.70] Dictionary, new definition of *returns*

insert

returns, in relation to an investment—see the *Financial Management Act 1996*, dictionary.

Explanatory note

This amendment inserts a new definition in line with current administrative practice (see explanatory note for amendment 1.16 for additional information).

Schedule 2 Legislation Act 2001

(see s 5)

Note Statute Law Amendment Acts may include a second schedule for amendments to the [Legislation Act](#). This Act does not provide for such amendments but the schedule heading is retained to preserve the usual numbering of schedule 3, which provides for minor and technical amendments proposed by the parliamentary counsel.

Schedule 3 Technical amendments

(see s 5)

Part 3.1 ACT Civil and Administrative Tribunal Act 2008

[3.1] Section 85 (3) (b)

omit

section 86 (1) (c)

substitute

section 86 (1) (a) (iii)

Explanatory note

This amendment corrects a cross-reference.

Part 3.2 Adoption Act 1993

[3.2] Dictionary, definition of *Aboriginal or Torres Strait Islander child or young person*

substitute

Aboriginal or Torres Strait Islander child or young person means a child or young person at least 1 of whose parents is a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and

- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

Explanatory note

This amendment updates the definition in line with current legislative drafting practice.

[3.3] Dictionary, definition of *responsible person*

omit

Aboriginal or Torres Strait Island community

substitute

Aboriginal or Torres Strait Islander community

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.3 Births, Deaths and Marriages Registration Act 1997

[3.4] Section 5 (4)

omit

foetal

substitute

fetal

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.4 Building and Construction Industry (Security of Payment) Act 2009

[3.5] Section 18 (2) (a) (ii)

omit

section 19 (1) (b)

substitute

section 19 (1) (a) (ii)

Explanatory note

This amendment corrects a cross-reference.

Part 3.5 Children and Young People Act 2008

[3.6] Section 94 (1) (d)

omit

an Aboriginal and Torres Strait Islander child or young person

substitute

an Aboriginal or Torres Strait Islander child or young person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.6 Controlled Sports Act 2019

[3.7] Section 52 (1) (a)

omit

is a registered controlled sports official

substitute

participates as a registered controlled sports official

Explanatory note

This amendment updates language in line with drafting practice elsewhere in the Act.

[3.8] Section 53 (1) (a)

substitute

(a) competes as a registered controlled sports contestant in a registered event; and

Explanatory note

This amendment updates language in line with drafting practice elsewhere in the Act.

Part 3.7 Coroners Act 1997

[3.9] Dictionary, definition of *member of the immediate family*, paragraph (b)

omit

Aboriginal or Torres Strait Island community

substitute

Aboriginal or Torres Strait Islander community

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.8 Crimes (Child Sex Offenders) Regulation 2005

[3.10] Section 16A (1) (l)

substitute

(l) the secretary of the Department of Health (Cwlth);

Explanatory note

This amendment updates the paragraph to reflect the change of name of the Commonwealth Department of Health and Ageing to the Commonwealth Department of Health.

Part 3.9 Crimes (Sentencing) Act 2005

[3.11] Section 64 (2), definition of *fine*

omit

Magistrates Court Act 1930, section 146

substitute

Crimes (Sentence Administration) Act 2005, section 116A

Explanatory note

This amendment corrects a cross-reference.

Part 3.10 Financial Sector Reform (ACT) Act 1999

[3.12] Dictionary, definition of *FS(TB) Act*

omit

Explanatory note

This amendment omits a definition that is made redundant as a result of another amendment (see explanatory note for amendment 3.12 for additional information).

[3.13] Dictionary, new definition of *FS (TR) Act*

insert

FS (TR) Act means the *Financial Sector (Transfer and Restructure) Act 1999* (Cwlth).

Explanatory note

This amendment inserts a new definition of *FS (TR) Act* to replace the definition of *FS(TB) Act*, which is omitted by another amendment. The *Financial Sector Legislation Amendment (Crisis Resolution Powers and Other Measures) Act 2018* (Cwlth), sch 4, amended the name of the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cwlth) to the *Financial Sector (Transfer and Restructure) Act 1999* (Cwlth). This amendment updates the definition to reflect the amended name of the Act.

[3.14] Further amendments, mentions of *FS(TB) Act*

omit

FS(TB) Act

substitute

FS (TR) Act

in

- section 7
- section 9
- section 10

Explanatory note

This amendment is consequential on other amendments to the dictionary that omit the definition of *FS(TB) Act* and insert a new definition of *FS (TR) Act*.

Part 3.11 Gaming Machine Act 2004

[3.15] Part 22 heading

substitute

Part 22 Transitional—Gaming Legislation Amendment Act 2018

Explanatory note

This amendment corrects an Act reference.

[3.16] Section 315 (1)

omit

Gaming Machine Legislation Amendment Act 2018

substitute

Gaming Legislation Amendment Act 2018

Explanatory note

This amendment corrects an Act reference.

Part 3.12 Gene Technology Regulation 2004

[3.17] Section 9 (f)

substitute

(f) Therapeutic Goods Administration, Commonwealth
Department of Health.

Explanatory note

This amendment updates the paragraph to reflect the change of name of the Commonwealth Department of Health and Ageing to the Commonwealth Department of Health.

Part 3.13 Government Agencies (Land Acquisition Reporting) Act 2018

[3.18] Section 9 (1)

after

A report about

insert

a

Explanatory note

This amendment inserts a missing word.

[3.19] Section 10 heading

substitute

10 Certain information must not be included in reports

Explanatory note

This amendment updates the section heading to omit redundant words.

[3.20] Section 10

omit

or statement

Explanatory note

This amendment omits redundant words.

Part 3.14 Human Cloning and Embryo Research Act 2004

[3.21] Section 13 (2), definition of *human cell*

omit

foetal

substitute

fetal

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.22] Further amendments, mentions of *foetus*

omit

foetus

substitute

fetus

in

- section 18 (4), definition of *prohibited embryo*, paragraph (e)
- section 22
- section 25A (b) (iii)
- section 29 (1) (d)

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.15 **Lakes Act 1976**

[3.23] Section 79 (1) (c)

omit

section 25A

substitute

section 27

Explanatory note

This amendment corrects a cross-reference.

Part 3.16 **Legal Aid Act 1977**

[3.24] Section 11 (c)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.25] Section 13 (1)

omit

his or her

substitute

the practitioner's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.26] Section 13 (2)

omit

his or her

substitute

the solicitor's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.27] Section 13 (3) (a) (i)

omit

on his or her own account in the ACT and retained by the person to act on his or her behalf

substitute

on the officer's own account in the ACT and retained by the person to act on the person's behalf

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.28] Section 13 (3) (b) (i)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.29] Section 18

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.30] Section 22 (1)

omit

he or she

substitute

the officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.31] Section 22 (2)

omit

he or she

substitute

the staff member

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.32] Section 22 (4)

omit

he or she

substitute

the staff member

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.33] Section 22 (4)

omit

his or her

substitute

the solicitor's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.34] Section 22 (6)

omit

his or her

substitute

the solicitor's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.35] Section 24

omit

his or her

substitute

the officer's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.36] Section 28 (3)

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.37] Section 31 (4)

omit

him or her

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.38] Section 31A (8)

omit

he or she

substitute

the chief executive officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.39] Section 32A

omit

he or she shall not demand

substitute

, the practitioner shall not demand

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.40] Section 32A

omit

he or she is entitled

substitute

the practitioner is entitled

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.41] Section 33 (1)

omit

him or her

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.42] Section 33 (5) and (6)

omit

his or her

substitute

the person's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.43] Section 36 (1) (j)

omit

his or her right to recover an amount that is recoverable by him or her

substitute

the person's right to recover an amount that is recoverable by the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.44] Section 39B (a)

omit

any information known to him or her, or to which he or she has access

substitute

any information known to the officer, or to which the officer has access

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.45] Section 39B (b)

omit

his or her

substitute

the officer's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.46] Section 47 (1)

omit

his or her

substitute

the Auditor-General

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.47] Section 47 (2)

omit

his or her

substitute

the Auditor-General's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.48] Section 50

omit

he or she

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.49] Section 51

omit

his or her

substitute

the commissioner's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.50] Section 52 (2) (c)

omit

his or her

substitute

the commissioner's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.51] Section 52 (2)

omit

him or her

substitute

the commissioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.52] Section 52 (4)

omit

he or she

substitute

the commissioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.53] Section 52 (4)

omit

his or her

substitute

the commissioner's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.54] Section 54 (5)

omit

he or she

substitute

the president

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.55] Section 55 (1)

omit

he or she

substitute

the commissioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.56] Section 55 (1)

omit

his or her knowledge, disclose the nature of his or her interest

substitute

the commissioner's knowledge, disclose the nature of the
commissioner's interest

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.57] Section 59

omit

his or her

substitute

their

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.58] Section 60 (2)

omit

him or her

substitute

the officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.59] Section 61

omit

his or her office

substitute

a statutory officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.60] Section 78 (2) (b)

omit

he or she is

substitute

they are

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.61] Section 78 (2)

omit

him or her

substitute

the member

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.62] Section 81 (1)

omit

he or she

substitute

the member

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.63] Section 81 (1)

omit

his or her

substitute

the member's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.64] Section 82 (1)

omit

he or she

substitute

the Minister

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.65] Section 84D (3)

omit

him or her

substitute

the prescribed person or assistant

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.66] Section 84D (4)

omit

him or her

substitute

the person

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.67] Section 84E (1)

omit

him or her

substitute

the officer

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.68] Section 91 (2)

omit

him or her

substitute

the practitioner

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.69] Section 91 (4)

omit

he or she is

substitute

they are

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.70] Section 92 (2) (a)

omit

acquired by him or her by reason of his or her office or employment

substitute

acquired by the person to whom this section applies by reason of their office or employment

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.71] Section 92 (3)

omit

he or she has the custody, or to which he or she has access, by virtue of his or her office

substitute

the person to whom this section applies has the custody, or to which they have access, by virtue of their office

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.72] Section 92 (3)

omit

him or her

substitute

the person to whom this section applies

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.73] Section 92A (1) (a)

omit

information known to him or her or to which he or she has access

substitute

information known to the officer or to which the officer has access

Explanatory note

This amendment updates language in line with current legislative drafting practice.

[3.74] Section 92A (1) (b)

omit

his or her

substitute

the officer's

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.18 Magistrates Court (Crimes Infringement Notices) Regulation 2008

[3.76] Schedule 1, item 2, column 2

omit

180

substitute

179

Explanatory note

This amendment corrects a cross-reference.

Part 3.19 Motor Accident Injuries Act 2019

[3.77] Section 37

omit

Explanatory note

This amendment omits a redundant provision. Section 37 defines *private medical examiner* for the purposes of chapter 2. Section 145 defines *private medical examiner* in identical terms for the purposes of division 2.6.3. References to ‘private medical examiner’ appear only in division 2.6.3 and sections 239 and 240 (both of which include a signpost definition referring readers to the definition in section 145).

[3.78] Section 61

substitute

61 Meaning of *allowable expenses*—ch 2

(1) In this chapter:

allowable expenses means expenses an applicant for defined benefits may incur in relation to treatment and care of the applicant's injury without the relevant insurer's approval during the initial period for the application for defined benefits.

(2) In this section:

initial period, for an application for defined benefits, means the period—

- (a) beginning on the date of the receipt notice for the application; and
- (b) ending—
 - (i) on the day the relevant insurer makes, or is taken to have made, a final decision to accept or reject liability for the application; or
 - (ii) if the insurer transfers the application to another insurer— 4 weeks after the date of the receipt notice for the application; or
 - (iii) if there is a dispute between insurers about liability under section 70—4 weeks after the date of the receipt notice for the application.

Explanatory note

This amendment relocates the definition of *initial period* to a separate subsection because the term is used only in the definition of *allowable expenses*. This amendment also corrects an incorrect cross-reference in the definition of *initial period*, paragraph (b) (iii).

[3.79] Section 79 (1) (a) (ii)

after

52 weeks

insert

immediately

Explanatory note

This amendment revises section 79 (1) (a) (ii) to be consistent with other references in part 2.4 to the 52-week period immediately before a motor accident.

[3.80] Section 81 (1), definition of *pre-injury weekly income*, paragraph (a)

after

52 weeks

insert

immediately

Explanatory note

This amendment revises the definition to be consistent with other references in part 2.4 to the 52-week period immediately before a motor accident.

[3.81] Section 81 (2), definition of *recent change in employment circumstances*, paragraph (a)

after

52 weeks

insert

immediately

Explanatory note

This amendment revises the definition to be consistent with other references in part 2.4 to the 52-week period immediately before a motor accident.

[3.82] Section 82 (1), definition of *pre-injury weekly income*

after

52 weeks

insert

immediately before the date of the motor accident

Explanatory note

The [Act](#), division 2.4.1 includes a number of provisions that define important terms for part 2.4. In particular, the definition of *pre-injury weekly income* is defined in relation to different types of employees by reference to the 52-week period before an employee's motor accident. For example, *pre-injury weekly income* for an ongoing employee or fixed term contractor is defined by reference to 'the 52 weeks before the date of the motor accident'.

Section 82 (1) defines *pre-injury weekly income* for a self-employed person by reference to a period of 52 weeks but does not state which 52-week period. This amendment inserts missing words to clarify that the period mentioned is the 52-week period immediately before the date of the motor accident.

[3.83] Section 84 (1), definition of *pre-injury weekly income*

after

52 weeks

insert

immediately

Explanatory note

This amendment revises the definition to be consistent with other references in part 2.4 to the 52-week period immediately before a motor accident.

[3.84] Section 151

omit

WPI guidelines

substitute

WPI assessment guidelines

Explanatory note

This amendment corrects an incorrect reference to the WPI assessment guidelines made under the [Act](#), section 146.

[3.85] Section 155 (1)

substitute

- (1) This section applies if—
 - (a) separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries; and
 - (b) the higher WPI assessment assesses the person’s WPI as at least 5% but not more than 9%.
- (1A) This section also applies if—
 - (a) only 1 WPI report from an independent medical examiner assesses an injured person’s WPI; and
 - (b) the person’s WPI is assessed as at least 5% but not more than 9%.

Explanatory note

This amendment revises section 155 (1) to clarify the circumstances in which section 155 applies.

[3.86] Section 156 (1)

substitute

- (1) This section applies if—
 - (a) separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries; and
 - (b) the higher WPI assessment assesses the person’s WPI as at least 10%; but
 - (c) the injured person is not entitled to make a motor accident claim in relation to the motor accident.
- (1A) This section also applies if—
 - (a) only 1 WPI report from an independent medical examiner assesses an injured person’s WPI; and
 - (b) the person’s WPI is assessed as at least 10%; but
 - (c) the injured person is not entitled to make a motor accident claim in relation to the motor accident.

Explanatory note

This amendment revises section 156 (1) to clarify the circumstances in which section 156 applies.

[3.87] Section 157 (1)

substitute

- (1) This section applies if—
 - (a) separate WPI reports from an independent medical examiner assess an injured person’s physical injuries and psychological injuries; and
 - (b) the higher WPI assessment assesses the person’s WPI as at least 10%; and

- (c) the injured person is entitled to make a motor accident claim in relation to the motor accident.
- (1A) This section also applies if—
- (a) only 1 WPI report from an independent medical examiner assesses an injured person’s WPI; and
 - (b) the person’s WPI is assessed as at least 10%; and
 - (c) the injured person is entitled to make a motor accident claim in relation to the motor accident.

Explanatory note

This amendment revises section 157 (1) to clarify the circumstances in which section 157 applies.

[3.88] Section 166

after

applies

insert

to make a motor accident claim

Explanatory note

This amendment revises section 166 to include missing words. The heading to section 166 makes it clear that the section deals with making a motor accident claim. The amendment will clarify that a person injured in a motor accident has 3 months from whichever of the dates mentioned in paragraphs (a) and (b) applies to the person to make a motor accident claim.

[3.89] Section 192 heading

substitute

192 Meaning of *ACAT reviewable decision*—div 2.10.3

Explanatory note

This amendment substitutes the heading to make it clear that the definition of *ACAT reviewable decision* is defined for division 2.10.3 only. The term is not used elsewhere in the Act.

[3.90] Section 192

omit

In this Act:

substitute

In this division:

Explanatory note

This amendment revises the section to make it clear that the definition of *ACAT reviewable decision* is defined for division 2.10.3 only. The term is not used elsewhere in the Act.

[3.91] Section 209 (1)

substitute

- (1) This section applies—
 - (a) if a person injured in a motor accident—
 - (i) is receiving income replacement benefits; or
 - (ii) because of the circumstances prescribed by regulation, would have been eligible to receive income replacement benefits; and
 - (b) if—
 - (i) if separate WPI reports from an independent medical examiner assess the person's physical injuries and psychological injuries—the higher WPI assessment assesses the person's WPI as less than 10%; or
 - (ii) if only 1 WPI report from an independent medical examiner assesses the person's WPI—the person's WPI is less than 10%; and

- (c) if the person has not had an SOI assessment in relation to the injuries; and
- (d) if it is 4 years and 6 months after the date of the motor accident.

Explanatory note

This amendment revises the subsection to clarify that section 209 applies if all the circumstances mentioned in subsection (1) apply to a person injured in a motor accident.

[3.92] Section 241 (3) (e)

omit

Explanatory note

This amendment omits a redundant paragraph. Section 241 (3) (e) provides that divisions 2.6.2 and 2.6.3 apply to an application by a person injured in a motor accident for an assessment of the person's whole person impairment, and the assessment, as if a reference in section 150 (1) to quality of life benefits were a reference to quality of life damages. However, there is no reference to quality of life benefits in section 150 (1).

[3.93] Section 282 (3)

omit

complying claim

substitute

complying notice of claim

Explanatory note

The [Act](#), section 257 defines *complying notice of claim* for part 5.7 to mean a notice of claim given under the [Civil Law \(Wrongs\) Act 2002](#), section 51 or section 55. This amendment inserts missing words to make section 282 (3) consistent with other provisions in part 5.7.

[3.94] Section 486 (3) and (4)

substitute

- (3) The respondent may recover as a debt from the person the amount by which the damages exceed the ACT total.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

Explanatory note

This amendment revises section 486 to clarify the intention of subsection (3). Subsection (4) is omitted because, as a consequence of the amendment of subsection (3), it is redundant.

[3.95] Dictionary, definition of *initial period*

omit

Explanatory note

This amendment omits the definition from the dictionary, as a consequence of another amendment that revises section 61 to make it clear that *initial period* is defined for the purposes of that section only.

[3.96] Dictionary, definition of *private medical examiner*

substitute

private medical examiner, for an injured person, for division 2.6.3 (Quality of life benefits—WPI assessment)—see section 145.

Explanatory note

This amendment updates the definition as a consequence of the omission of section 37 by another amendment.

[3.97] Dictionary, definition of *road*

substitute

road—

- (a) means an area that is—
 - (i) open to or used by the public; and
 - (ii) developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; but
- (b) does not include an area that would otherwise be a road but for a declaration under the *Road Transport (General) Act 1999*, section 12 (Power to include or exclude areas in road transport legislation) that this Act does not apply to the area.

Explanatory note

This amendment revises the definition for clarity.

Part 3.20 Public Unleased Land Act 2013

[3.98] Section 31 (1), new example

insert

Example—other plant

a hedge

Explanatory note

This amendment inserts an example to assist users.

Part 3.21 **Racing (Jockeys Accident Insurance) Regulation 2006**

[3.99] Section 5 (1) (c)

substitute

- (c) part 4 (Uninsured liabilities), division 6 (Uninsured liabilities);

Explanatory note

This amendment updates the cross-reference to reflect amendments made to NSW legislation. The *Workers Compensation Amendment (Insurance Reform) Act 2003* (NSW) amended the *Workers Compensation Act 1987* (NSW), part 4 heading and part 4, division 6 heading.

[3.100] Section 5 (2) (a)

substitute

- (a) chapter 2 (Administration), the following provisions:
 - (i) part 2 (General workers compensation functions);
 - (ii) part 6 (Financial provisions);

Explanatory note

This amendment updates and omits cross-references to reflect amendments made to NSW legislation. The *Safety, Return to Work and Support Board Act 2012* (NSW) repealed the *Workplace Injury Management and Workers Compensation Act 1998* (NSW), chapter 2, parts 4 and 5. The *State Insurance and Care Governance Act 2015* (NSW) amended the *Workplace Injury Management and Workers Compensation Act 1998* (NSW), chapter 2, part 2 heading.

[3.101] Section 5 (2) (b) (iii)

substitute

- (iii) division 3 (Notification of decisions of insurers);

Explanatory note

This amendment updates a cross-reference to reflect amendments made to NSW legislation. The *Workplace Injury Management and Workers Compensation Act 1998* (NSW), chapter 4, part 2, division 3 was repealed by the *State Insurance and Care Governance Act 2015* (NSW) and a new chapter 4, part 2, division 3 was inserted by the *Workers Compensation Legislation Amendment Act 2018* (NSW).

Part 3.22 Radiation Protection Act 2006

[3.102] Section 17 (2) (a) to (c)

substitute

- (a) whether the applicant can satisfy any relevant requirements set out in the national directory; and

Explanatory note

This amendment updates paragraphs to omit cross-references to accurately reflect the content of a Commonwealth instrument. Section 17 (2) (a) to (c) currently refers to requirements and conditions under the national directory for radiation protection, schedules 6, 7 and 8. However, schedules 6, 7 and 8 have always been, and will continue to be, without content. The current approach proposed at the national level is to remove specific national directory schedule references from each jurisdiction's legislation. This amendment omits the references to schedules 6, 7 and 8 and refers more broadly to 'relevant requirements set out in the national directory'.

[3.103] Section 26 (2) (a) and note

substitute

- (a) whether the applicant can satisfy any relevant requirements set out in the national directory; and

Explanatory note

This amendment updates the paragraph to omit a cross-reference and a note to reflect amendments made to a Commonwealth instrument. Section 26 (2) (a) currently refers to ‘any relevant requirement set out in the national directory, schedule 9’. Schedule 9 has been omitted from the 2nd edition of the National Directory for Radiation Protection. This amendment omits the reference to schedule 9, as well as the note about schedule 9.

Part 3.23 Transplantation and Anatomy Act 1978

[3.104] Section 6, definition of *tissue*

omit

foetal

substitute

fetal

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Part 3.24 Veterinary Practice Act 2018

[3.105] Section 16 (2) (h)

before

anything

insert

include

Explanatory note

This amendment corrects a minor typographical error by inserting missing words.

[3.106] Dictionary, definition of *exempt entity*

omit

Explanatory note

This amendment omits the definition of a term that is no longer used in the Act.

Part 3.25 Victims of Crime (Financial Assistance) Act 2016

[3.107] Dictionary, definition of *schedule 1 offence*, paragraph (b)

after

a provision mentioned in

insert

an item in

Explanatory note

This amendment corrects a minor typographical error by inserting missing words.

[3.108] Dictionary, definition of *very serious injury*, paragraph (d)

omit

foetus

substitute

fetus

Explanatory note

This amendment updates language in line with current legislative drafting practice.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 19 September 2019.

2 Notification

Notified under the [Legislation Act](#) on 31 October 2019.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Statute Law Amendment Bill 2019, which was passed by the Legislative Assembly on 24 October 2019.

Clerk of the Legislative Assembly

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