

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Industrial Relations)

# Workers Compensation (Acts of Terrorism) Amendment Bill 2002

## Contents

---

	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
2	Commencement 2
<b>Part 2</b>	<b>Workers Compensation Act 1951</b>
3	Act amended—pt 2 3
4	New chapter 14A 3

---

	Page
<b>Part 3</b>	
<b>Workers' Compensation Supplementation Fund Act 1980</b>	
5 Act amended—pt 3	9
6 Payments out of fund Section 7	9
7 New section 7 (2) and (3)	9
<b>Part 4</b>	
<b>Additional amendments</b>	
8 Acts amended—sch 1	10
<b>Schedule 1</b>	
<b>Additional amendments</b>	11
<b>Part 1.1</b>	
<b>Children and Young People Act 1999</b>	11
<b>Part 1.2</b>	
<b>Magistrates Court (Civil Jurisdiction) Act 1982</b>	11
<b>Part 1.3</b>	
<b>Periodic Detention Act 1995</b>	11
<b>Part 1.4</b>	
<b>Remand Centres Act 1976</b>	12
<b>Part 1.5</b>	
<b>Supervision of Offenders (Community Service Orders) Act 1985</b>	12
<b>Part 1.6</b>	
<b>Workers Compensation Act 1951</b>	12
<b>Part 1.7</b>	
<b>Workers' Compensation Supplementation Fund Act 1980</b>	18

2002

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Industrial Relations)

## **Workers Compensation (Acts of Terrorism) Amendment Bill 2002**

---

### **A Bill for**

An Act to amend the *Workers Compensation Act 1951*, and for other purposes

---

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Workers Compensation (Acts of Terrorism)*  
4 *Amendment Act 2002*.

5 **2 Commencement**

6 This Act commences on 1 July 2002.

7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see *Legislation Act 2001*, s 75).

9

---

1 **Part 2** **Workers Compensation Act**  
2 **1951**

3 **3 Act amended—pt 2**

4 This part amends the *Workers Compensation Act 1951*.

5 **4 New chapter 14A**

6 *insert*

7 **Chapter 14A Temporary provisions for**  
8 **acts of terrorism**

9 **30A Application of ch 14A to insurers**

10 (1) This chapter applies to an insurer if—

- 11 (a) the insurer has acted honestly and taken all proper and  
12 business-like steps to obtain reinsurance for the insurer's  
13 liability to pay compensation for injuries or deaths (or both)  
14 caused by acts of terrorism; and
- 15 (b) an act of terrorism happens before 1 April 2004; and
- 16 (c) the insurer accepts liability for claims for compensation for  
17 injuries or deaths (or both) caused by the act of terrorism; and
- 18 (d) the insurer has acted honestly and taken all proper and  
19 business-like steps to demand the maximum amounts the  
20 insurer may demand under the reinsurance contracts held by  
21 the insurer that apply in relation to the claims; and
- 22 (e) the total amount paid by the insurer for the claims, after the  
23 deduction of the maximum amounts the insurer may receive

Section 4

---

1 under the reinsurance contracts, is more than the temporary  
2 fund threshold amount that applies to the insurer.

3 (2) For this chapter, the *temporary fund threshold amount* that applies  
4 to an insurer is the amount worked out using the following formula:

5 insurer's market share × relevant premium pool amount.

6 (3) In this section:

7 *insurer's market share* means the proportion (expressed as a  
8 percentage) of the administrative costs of the Act apportioned by the  
9 Minister to the insurer under section 27D (2) (Funds for  
10 administration of Act) in relation to the financial year before the act  
11 of terror happens.

12 *premium pool* means the total amount of—

13 (a) the premium income received by each approved insurer in  
14 relation to compulsory insurance policies in the financial year  
15 before the act of terror happens; and

16 (b) the premium that would have been payable by each self-insurer  
17 if the self-insurer had obtained a compulsory insurance policy  
18 for the financial year (or the part of the financial year for which  
19 the self-insurer was a self-insurer).

20 *relevant premium pool amount* means 5% of the premium pool.

### 21 **30B Definitions for ch 14A**

22 In this chapter:

23 *act of terrorism*—see section 30C.

24 *insurer* means an approved insurer or a self-insurer.

25 *temporary fund*—see section 30D (1).

26 *temporary fund threshold amount*—see section 30A (2).

---

1 **30C Meaning of *act of terrorism* for ch 14A**

2 (1) In this chapter:

3 *act of terrorism* means the use or threat of action if—

- 4 (a) the action falls within subsection (2); and
- 5 (b) the use or threat is designed to influence a government or to
- 6 intimidate the public or a section of the public; and
- 7 (c) the use or threat is made for the purpose of advancing a
- 8 political, religious or ideological cause.

9 (2) Action falls within this subsection if it—

- 10 (a) involves serious violence against a person; or
- 11 (b) involves serious damage to property; or
- 12 (c) endangers a person's life, other than that of the person
- 13 committing the action; or
- 14 (d) creates a serious risk to the health or safety of the public or a
- 15 section of the public; or
- 16 (e) is designed seriously to interfere with or seriously to disrupt an
- 17 electronic system.

18 (3) The use or threat of action falling within subsection (2) that involves

19 the use of firearms or explosives is terrorism whether or not

20 subsection (1) (b) is satisfied.

21 (4) In this section:

22 *action* includes action outside the ACT or Australia.

23 *government* includes the government of another Australian

24 jurisdiction or a foreign country.

25 *person* means a person anywhere, whether in or outside the ACT or

26 Australia.

1            *property* means property located anywhere, whether in or outside  
2            the ACT or Australia.

3            *public* includes the public of a place outside the ACT or Australia.

#### 4            **30D Terrorism cover temporary reinsurance fund**

5            (1) If this chapter applies to an insurer, the terrorism cover temporary  
6            reinsurance fund (the *temporary fund*) is established.

7            (2) The temporary fund consists of—

8            (a) the amounts of levies paid by insurers under this chapter; and

9            (b) amounts borrowed by the Territory for the fund; and

10           (c) any contributions made by the Territory to the fund; and

11           (d) any amounts paid to the fund under the *Workers Compensation*  
12           *Supplementation Fund Act 1980*; and

13           (d) income from the investment of amounts in the fund; and

14           (e) any other amounts that may lawfully be paid into the fund.

15           (3) The temporary fund is to be managed by the Territory and money  
16           paid into it is taken to be trust money under the *Financial*  
17           *Management Act 1996*.

#### 18           **30E Entitlement of insurers to reimbursement from temporary** 19           **fund**

20           (1) If this chapter applies to an insurer because of an act of terrorism,  
21           the insurer is entitled to be reimbursed from the temporary fund the  
22           insurer's uninsured liability for the act of terrorism less the  
23           temporary fund threshold amount that applies to the insurer in  
24           relation to the act of terrorism.

25           (2) However, the insurer is entitled to be fully reimbursed from the  
26           temporary fund the insurer's uninsured liability for another act of  
27           terrorism that happens—



- 
- 1 (a) before 1 April 2004; and
- 2 (b) not later than 1 year after the day the act of terrorism
- 3 mentioned in subsection (1) happens.
- 4 (3) Subsection (2) applies only if the insurer has acted honestly and
- 5 taken all proper and business-like steps to—
- 6 (a) obtain reinsurance for the insurer's liability to pay
- 7 compensation for injuries or deaths (or both) caused by the
- 8 later act of terrorism; and
- 9 (b) demand the maximum amounts the insurer may demand under
- 10 the reinsurance contracts held by the insurer that apply in
- 11 relation to the later act of terrorism.

- 12 (4) In this section:

13 *insurer's uninsured liability*, for an act of terrorism, means the total

14 of the amounts paid by the insurer for claims for compensation for

15 injuries or deaths (or both) caused by the act of terrorism less all

16 amounts that are recoverable (or to the extent that they are

17 recoverable) by the insurer under the reinsurance contracts held by

18 the insurer that apply in relation to the claims.

19 **30F Payments out of temporary fund**

20 The temporary fund may be used to—

- 21 (a) pay any amount required under this chapter to be paid from the
- 22 fund; and
- 23 (b) repay any amount borrowed for, or contributed by the Territory
- 24 to, the fund; and
- 25 (c) pay interest on an amount mentioned in paragraph (b).

26 **30G Regulations about temporary fund**

- 27 (1) The regulations may make provision in relation to the temporary
- 28 fund, including—

- 1 (a) the imposition of levies on insurers for the fund; and  
2 (b) payments from the fund.
- 3 (2) In particular, the regulations may make provision in relation to—  
4 (a) levies for the fund, including their rate; and  
5 (b) payments to the fund, including contributions by the Territory  
6 to the fund; and  
7 (c) payments from the fund, including the information insurers  
8 claiming an entitlement to reimbursement from the fund must  
9 give to the fund's manager.

### 10 **30H Exclusion of Corporations legislation**

- 11 (1) The temporary fund is declared to be an excluded matter for the  
12 purposes of the Corporations Act, section 5F in relation to the whole  
13 of the Corporations legislation to which the Corporations Act,  
14 part 1.1A (Interaction between Corporations Legislation and State  
15 and Territory laws) applies.

16 *Note* The Corporations Act, s 5F provides that if a State or Territory law  
17 declares a matter to be an excluded matter for the purposes of that  
18 section in relation to all or part of the Corporations legislation to which  
19 the Corporations Act, pt 1.1A applies (see s 5D), the provisions that are  
20 the subject of the declaration will not apply in relation to that matter in  
21 the State or Territory that made the declaration.

- 22 (2) Without limiting subsection (1) and to remove any doubt, an act or  
23 omission by an entity in relation to the fund is declared to be an  
24 excluded matter for the purposes of the Corporations Act, section 5F  
25 in relation to the whole of the Corporations legislation to which the  
26 Corporations Act, part 1.1A applies.

### 27 **30I Expiry of ch 14A**

28 This chapter expires on 1 October 2004.

1 **Part 3** **Workers' Compensation**  
2 **Supplementation Fund Act**  
3 **1980**

4 **5 Act amended—pt 3**

5 This part amends the *Workers' Compensation Supplementation*  
6 *Fund Act 1980*.

7 **6 Payments out of fund**  
8 **Section 7**

9 *omit*

10 The manager may

11 *substitute*

12 (1) The manager may

13 **7 New section 7 (2) and (3)**

14 *insert*

15 (2) The manager must pay out of the fund any amount the Minister  
16 directs be transferred to the terrorism cover temporary reinsurance  
17 fund under the *Workers Compensation Act 1951*.

18 (3) Subsection (2) and this subsection expire on 1 October 2004.

1 **Part 4** **Additional amendments**

2 **8 Acts amended—sch 1**

3 Schedule 1 amends the Acts mentioned in the schedule.

1 **Schedule 1 Additional amendments**  
2 (see s 8)

3 **Part 1.1 Children and Young People**  
4 **Act 1999**

5 **[1.1] Section 113**  
6 *omit*

7 **Part 1.2 Magistrates Court (Civil**  
8 **Jurisdiction) Act 1982**

9 **[1.2] Section 471 (1)**  
10 *omit*  
11 (other than rules made under section 497 (Rule-making power))

12 **[1.3] Section 471 (4)**  
13 *omit*  
14 or rules made under section 497

15 **[1.4] Section 471 (6)**  
16 *omit*  
17 (other than a proceeding to which rules made under section 497  
18 apply)

19 **Part 1.3 Periodic Detention Act 1995**

20 **[1.5] Section 28**  
21 *omit*

---

1 **Part 1.4 Remand Centres Act 1976**

2 **[1.6] Section 21A**

3 *omit*

4 **Part 1.5 Supervision of Offenders**  
5 **(Community Service Orders)**  
6 **Act 1985**

7 **[1.7] Section 10**

8 *omit*

9 **Part 1.6 Workers Compensation Act**  
10 **1951**

11 **[1.8] Section 4C (2), example 3**

12 *substitute*

13 3 A gardener regularly employed by the owner of a business to work on the  
14 grounds of the premises where the employer's business is carried on. The  
15 gardener is taken to be a *worker* employed to perform work incidental to the  
16 principal's business (see s (1)).

17 **[1.9] Section 6C (3) (d)**

18 *substitute*

19 (d) cerebral aneurism;

20 (e) any other condition prescribed by the regulations for this  
21 section.

1 **[1.10] Section 9C (2), definition of *medical certificate***

2 *omit*

3 of a doctor

4 *substitute*

5 , from a doctor, that complies with the requirements for medical  
6 assessments prescribed under the regulations and

7 **[1.11] Section 9H heading**

8 *substitute*

9 **9H Second assessments**

10 **[1.12] Section 9H (2)**

11 *omit*

12 examined

13 *substitute*

14 assessed

15 **[1.13] Section 10Q (3)**

16 *omit*

17 may

18 *substitute*

19 must

20 **[1.14] Section 11B (2)**

21 *omit everything before paragraph (a), substitute*

- 22 (2) A medical certificate required to accompany a claim for weekly  
23 compensation must comply with the requirements for medical  
24 assessments prescribed under the regulations and include a  
25 statement of the doctor's assessment of—

1 **[1.15] Section 11C heading**

2 *substitute*

3 **11C No compliant certificate with claim**

4 **[1.16] Section 12**

5 *substitute*

6 **12 Meaning of *insurer* and *given* to insurer for pt 6.2**

7 (1) In this part:

8 *insurer*, in relation to a claim against an employer, means—

- 9 (a) the approved insurer with whom the employer has a  
10 compulsory insurance policy that applies to the claim; or  
11 (b) if the employer is a self-insurer—the employer; or  
12 (c) if the employer is not a self-insurer and has no compulsory  
13 insurance policy that applies to the claim—the nominal insurer.

14 (2) For this part, a claim is *given* to the insurer if the claim is given to  
15 the insurer or the insurer is given notice of the claim by the  
16 employer or worker.

17 **[1.17] Section 12B (1) and (2)**

18 *substitute*

19 (1) An insurer rejects a claim for compensation under this Act by  
20 written notice given to the worker and, unless the insurer is a  
21 self-insurer, the employer.

22 (2) The claim is taken to be rejected when the notice is received by the  
23 worker and, unless the insurer is a self-insurer, the employer.



1 **[1.18] Section 12B (5)**

2 *omit*

3 affidavit evidence about

4 *substitute*

5 a statutory declaration explaining

6 **[1.19] Section 12B (5), new note**

7 *insert*

8 *Note* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of  
9 statutory declarations under ACT laws (see that Act, s 5).

10 **[1.20] New section 12G (4)**

11 *insert*

12 (4) Subsection (3) does not affect a self-insurer's liability in relation to  
13 the claim.

14 **[1.21] New section 15A (3)**

15 *insert*

16 (3) The regulations may also make provision about the role of approved  
17 rehabilitation providers under this Act.

18 **[1.22] Section 18H (4) (a)**

19 *omit*

20 incomes

21 *substitute*

22 income

1 **[1.23] Section 24 heading**

2 *substitute*

3 **24 Conciliation and arbitration**

4 **[1.24] Section 24**

5 *omit*

6 arbitration

7 *substitute*

8 conciliation or arbitration

9 **[1.25] Chapter 13 heading**

10 *substitute*

11 **Chapter 13 Review of decisions by**  
12 **administrative appeals**  
13 **tribunal**

14 **[1.26] Section 27D (3) (a)**

15 *omit*

16 incomes

17 *substitute*

18 income

19 **[1.27] Section 30 (2) (a)**

20 *substitute*

21 (a) medical assessments of injured workers;

22 (ab) the use of medical specialists in relation to compensable  
23 injuries;

1 **[1.28] Section 30 (2) (h)**

2 *substitute*

- 3 (h) the action that may be taken in relation to an approved insurer  
4 in circumstances prescribed under the regulations, including an  
5 order that an approved insurer pay to the Territory an amount  
6 of not more than \$1 000;

7 **[1.29] Dictionary, definition of *given***

8 *substitute*

9 *given* to the insurer, for pt 6.2 (Time for accepting or rejecting  
10 claims)—see section 12 (2).

11 **[1.30] Dictionary, definition of *injured worker***

12 *substitute*

13 *injured worker*—see section 10I (Definitions for ch 5).

14 **[1.31] Dictionary, definition of *insurer***

15 *substitute*

16 *insurer*—

- 17 (a) for chapter 5 (Injury management process), means—  
18 (i) an approved insurer or a self-insurer; or  
19 (ii) if there is more than 1 employer of the worker—see  
20 section 10J; and  
21 (b) for part 6.2 (Time for accepting or rejecting claims)—see  
22 section 12 (1).

23 **[1.32] Dictionary, definition of *workplace injury***

24 *substitute*

25 *workplace injury*—see section 10I (Definitions for ch 5).

1 **Part 1.7** **Workers' Compensation**  
2 **Supplementation Fund Act**  
3 **1980**

4 **[1.33] Section 1**

5 *substitute*

6 **1 Name of Act**

7 This Act is the *Workers Compensation Supplementation Fund Act*  
8 *1980*.

9 **[1.34] Section 2, new definition of *approved insurer***

10 *insert*

11 *approved insurer*—see the Compensation Act, dictionary.

12 **[1.35] Section 2, definition of *Compensation Act***

13 *substitute*

14 *Compensation Act* means the *Workers Compensation Act 1951*.

15 **[1.36] Section 2, new definition of *compulsory insurance policy***

16 *insert*

17 *compulsory insurance policy*—see the Compensation Act,  
18 dictionary.

19 **[1.37] Section 2, definition of *employer***

20 *substitute*

21 *employer*—see the Compensation Act, section 5.

22 **[1.38] Section 2, definitions of *employer's policy* and *insurer***

23 *omit*

1 **[1.39] Section 2, definition of *fund***

2 *substitute*

3 *fund* means the Workers Compensation Supplementation Fund of  
4 the Australian Capital Territory established by section 3.

5 **[1.40] Section 2, definition of *worker***

6 *substitute*

7 *worker*—see the Compensation Act, dictionary.

8 **[1.41] Part 2 heading**

9 *substitute*

10 **Part 2** **Workers Compensation**  
11 **Supplementation Fund**

12 **[1.42] Section 3 (1)**

13 *substitute*

14 (1) The Workers Compensation Supplementation Fund of the  
15 Australian Capital Territory is established.

16 **[1.43] Section 3 (3)**

17 *substitute*

18 (3) Each account kept by the manager under subsection (3) must  
19 contain in its title the words 'Workers Compensation  
20 Supplementation Fund Account'.

21 **[1.44] Division 4.1 heading**

22 *substitute*

23 **Division 4.1** **Surcharge on compulsory**  
24 **insurance policies**

1 **[1.45] Section 22 (1)**

2 *substitute*

3 (1) An employer who obtains a compulsory insurance policy from an  
4 approved insurer must pay to the insurer the prescribed surcharge  
5 for the policy.

6 **[1.46] Section 22 (2)**

7 *omit*

8 **[1.47] Section 22 (3)**

9 *substitute*

10 (3) For this section, the prescribed surcharge for a compulsory  
11 insurance policy is an amount equal to 10% (or, if a lesser  
12 percentage is determined, in writing, by the Minister, the lesser  
13 percentage) of the premium payable in relation to the policy at the  
14 premium rate in force on the day stated in the policy to be the day  
15 when insurance cover begins under the policy.

16 **[1.48] Section 22 (5) and (7)**

17 *omit*

18 **[1.49] Section 22**

19 *renumber subsections when Act next republished under Legislation*  
20 *Act 2001*

21 **[1.50] Section 23**

22 *omit*

23 section 17C

24 *substitute*

25 section 152

1 **[1.51] Section 24 (1) (b) and (3) (a)**

2 *omit*

3 employer's policies

4 *substitute*

5 compulsory insurance policies

6 **[1.52] Section 26 (1) and (2)**

7 *omit*

8 Where, before or after the commencement of this Act—

9 *substitute*

10 If—

11 **[1.53] Sections 27 (b), 30 (2) (c) and 39**

12 *omit*

13 employer's policy

14 *substitute*

15 compulsory insurance policy

16 **[1.54] Section 40 (1) (a)**

17 *omit*

18 employer's policies

19 *substitute*

20 compulsory insurance policies

21 **[1.55] Section 40 (2)**

22 *omit*

23 employer's policy

24 *substitute*

1 compulsory insurance policy

2 **[1.56] Section 40 (3)**

3 *omit*

4 whether made before or after the commencement of this Act

5 **[1.57] Further amendments, mentions of *an employer's policy***

6 *omit*

7 an employer's policy

8 *substitute*

9 a compulsory insurance policy

10 *in*

- 11 • section 22 (6) (a)
- 12 • section 23 (2)
- 13 • section 25 (1)
- 14 • section 26
- 15 • section 41 (a).

16 **[1.58] Further amendments, mentions of *insurer***

17 *omit*

18 insurer

19 *substitute*

20 approved insurer

21 *in*

- 22 • section 2, definition of *liquidator*
- 23 • section 2, definition of *supervising insurer* (2nd mention)



- 1 • section 7 (b) (*1st mention*)
- 2 • section 22 (6) (a) and (b)
- 3 • section 24 heading
- 4 • section 24 (1) (*1st mention*)
- 5 • section 24 (2)
- 6 • section 24 (3) (*1st mention*)
- 7 • section 25 (1) (*1st mention*)
- 8 • section 25 (2) (*1st mention*)
- 9 • section 26 (1) (c)
- 10 • section 26 (2) (c)
- 11 • section 26 (3) (*1st mention*)
- 12 • section 27 (*1st mention*)
- 13 • section 28 (1) (*1st mention*)
- 14 • section 28 (3) (*1st mention*)
- 15 • section 30 (1) (*1st and 3rd mention*)
- 16 • section 30 (2) (c)
- 17 • section 30 (3) (*2nd mention*)
- 18 • section 35 heading
- 19 • section 35 (1) (*1st mention*)
- 20 • section 35 (3) (*1st mention*)
- 21 • section 39 heading
- 22 • section 39 (*1st mention*)
- 23 • section 40 (1) (a) (*1st mention*)
- 24 • section 40 (2) (*1st mention*)

- 1 • section 41 heading
- 2 • section 41 (a) (*1st mention*)
- 3 • section 42 (*1st mention*).

4 **[1.59] Further amendments, mentions of *insurers***

- 5 *omist*
- 6 insurers
- 7 *substitute*
- 8 approved insurers
- 9 *in*
- 10 • section 12 (1) (a) (*1st mention*)
- 11 • section 17 (2) (d) (*2nd mention*)
- 12 • section 26 heading
- 13 • section 28 heading.

---

## Endnote

### Republications of amended laws

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

© Australian Capital Territory 2002