

2006

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Industrial Relations)

# Workers Compensation Amendment Bill 2006

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# **Workers Compensation Amendment Bill 2006**

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## **A Bill for**

An Act to amend the *Workers Compensation Act 1951*

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

1 **1 Name of Act**

2 This Act is the *Workers Compensation Amendment Act 2006 (No 2)*.

3 **2 Commencement**

4 This Act commences on the commencement of the *Workers*  
5 *Compensation Amendment Act 2006*.

6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see Legislation Act, s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Workers Compensation Act 1951*.

10 **4 Meaning of worker**  
11 **Chapter 3 heading, note 1**

12 *omit*

- 13 • religious worker (s 17)

14 *substitute*

- 15 • family day care carer (s 16A)  
16 • religious worker (s 17)

17 **5 Chapter 3 heading, note 2**

18 *before*

19 s 17 (Religious workers)

20 *insert*

21 s 16A (Family day care carers),

---

**6 New section 16A**

*insert*

**16A Family day care carers**

- (1) The Minister may make a declaration for this section in accordance with a request by—
- (a) an approved family day care service; or
  - (b) an approved in-home care service.
- (2) The Minister may, on the Minister's own initiative, make a declaration for this section if the Minister considers that people engaged by an approved family day care service or an approved in-home care service should be treated as workers of the service.
- (3) For this Act—
- (a) an individual included in a class of individuals declared by the Minister is taken to be a **worker** employed by the person stated in the declaration to be the employer of individuals in that class; and
  - (b) the individual's employment is taken to be as stated in the declaration for individuals in the class.
- (4) A declaration is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- (5) In this section:

***approved family day care service***—see the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth), section 3 (1).

***approved in-home care service***—see the *A New Tax System (Family Assistance) (Administration) Act 1999* (Cwlth), section 3 (1).

1 **7 Religious workers**  
2 **Section 17 (1)**

3 *omit*  
4 , in writing,

5 **8 Compensation for death or incapacity through disease**  
6 **Section 27 (2)**

7 *substitute*

8 (2) If the worker dies or is totally or partially incapacitated for work as  
9 a result of the disease, or the worker received medical treatment in  
10 relation to the disease, then, for this Act, unless the contrary  
11 intention appears—

12 (a) the contraction of the disease, or the aggravation, acceleration  
13 or recurrence of the disease is a personal injury to the worker  
14 arising out of the employment of the worker by the worker's  
15 employer; and

16 (b) the date of the injury is the earliest of the following:

17 (i) the date of the death;

18 (ii) the date of the start of the incapacity;

19 (iii) the date when the medical treatment was first received.

20 **9 Entitlement to weekly compensation for first 26 weeks of**  
21 **incapacity**  
22 **Section 39 (3)**

23 *omit*

24 pension age

25 *substitute*

26 65

1 **10 Entitlement to weekly compensation after first 26 weeks**  
2 **of incapacity**  
3 **Section 40 (4)**

4 *omit*

5 pension age

6 *substitute*

7 65

8 **11 Entitlement to weekly compensation after 26 weeks of**  
9 **partial incapacity**  
10 **Section 42 (1)**

11 *after*

12 the weekly amount the worker is being paid for working

13 *insert*

14 or could earn in reasonably available suitable employment

15 **12 Section 42 (3)**

16 *substitute*

17 (3) For this section, in working out the average weekly amount the  
18 worker could earn, consideration may be given to the following:

19 (a) suitable employment that the worker unreasonably rejects;

20 (b) suitable employment that the worker obtains but unreasonably  
21 discontinues.

22 (4) In this section:

23 ***statutory ceiling***, in relation to an amount, means 150% of AWE at  
24 the time the amount is to be paid.

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**13 Section 70**

*substitute*

**70 Employer liability for medical treatment etc**

- (1) The employer is liable to pay—
  - (a) in relation to the cost of medical treatment reasonably received in relation to the injury—an amount of compensation appropriate for the provision of the medical treatment, having regard to the charges customarily made for similar medical treatment where the treatment is received; and
  - (b) in relation to the cost of rehabilitation services received by the worker in relation to the injury under the worker’s personal injury plan—the cost of the services in accordance with the plan; and
  - (c) in relation to any damage to, or loss of, the worker’s clothing sustained in association with the injury—compensation of a reasonable amount for the repair or replacement of the damaged or lost clothing.

*Note 1* Rehabilitation services include training and retraining services—see the dictionary, def *rehabilitation services*.

*Note 2* Ch 5 deals with personal injury plans.

- (2) However, the total amount payable under subsection (1) for each of the following must not be more than the maximum amount:
  - (a) for the cost of medical treatment consisting of the repair or replacement of a worker’s contact lenses, crutches, prosthesis, spectacles or other artificial aid;
  - (b) for damage to or loss of a worker’s clothing.



- 1 (3) In subsection (2):  
 2 *maximum amount*, for medical treatment, damage or loss, means—  
 3 (a) if an amount has been agreed between the worker and  
 4 employer—that amount; or  
 5 (b) in any other case—\$500 cpi indexed.
- 6 (4) For this section, the cost of medical treatment or rehabilitation  
 7 services is taken to include—  
 8 (a) the amount of wages lost by the worker because of the  
 9 worker’s attendance at a place (the *relevant place*) to receive  
 10 the treatment or services; and  
 11 (b) the cost of taking the worker (whether the worker or someone  
 12 else does the taking) to and from the relevant place worked out  
 13 under either—  
 14 (i) section 74 (Transport costs other than private car); or  
 15 (ii) section 75 (Working out transport costs for private cars);  
 16 and  
 17 (c) the cost of any accommodation (including the cost of meals  
 18 required by the worker because of the worker’s attendance at  
 19 the relevant place worked out under section 76 (Costs of  
 20 accommodation and meals).

21 **14 Claim for compensation for pt 4.5**  
 22 **Section 71 (1)**

- 23 *omit*  
 24 A worker  
 25 *substitute*  
 26 The worker

- 1     **15     Section 73 heading**
- 2             *substitute*
- 3     **73     Payments for medical treatment received from hospital**
- 4     **16     Transport costs other than private car**
- 5             **Section 74 (1)**
- 6             *omit*
- 7             to undergo medical treatment
- 8             *substitute*
- 9             to receive medical treatment or rehabilitation services
- 10    **17     Working out transport costs for private cars**
- 11            **Section 75 (1)**
- 12            *omit*
- 13            to undergo medical treatment
- 14            *substitute*
- 15            to receive medical treatment or rehabilitation services
- 16    **18     Costs of accommodation and meals**
- 17            **Section 76 (1), note**
- 18            *omit*
- 19    **19     Section 76 (3)**
- 20            *substitute*
- 21            (3) The worker is not entitled to payment for a meal unless the meal is
- 22            eaten while the worker—
- 23            (a) is travelling to or from a place to receive medical treatment or
- 24            rehabilitation services for which compensation is payable; or

1 (b) is at a place to receive medical treatment or rehabilitation  
2 services for which compensation is payable; or

3 (c) is staying at accommodation for which compensation is  
4 payable under this part.

## 5 **20 Section 86**

6 *substitute*

### 7 **86 Definitions for ch 5**

8 (1) In this Act:

9 *personal injury plan*, for a worker, means a plan for coordinating  
10 and managing the aspects of injury management that relate to  
11 medical treatment and rehabilitation services for the worker to  
12 achieve a timely, safe and durable return to work for the worker.

13 (2) In this chapter:

14 *injured worker* means a worker who has received a workplace  
15 injury.

16 *injury management* means the process that consists of activities and  
17 procedures that are carried out or established to achieve a timely,  
18 safe and durable return to work for injured workers.

19 *injury management program* means a coordinated and managed  
20 program that integrates all aspects of injury management (including  
21 medical treatment, rehabilitation services, claims management and  
22 employment management practices) to achieve the best results for a  
23 timely, safe and durable return to work of injured workers.

24 *injury notice*—see section 93 (2) (Early notification of workplace  
25 injury).

26 *nominated treating doctor*, for an injured worker, means the doctor  
27 or medical practice nominated under section 102 (Nomination of  
28 doctor for personal injury plan).

1            ***workplace injury*** means an injury in relation to which compensation  
2            is or may be payable under this Act.

3            **21            Worker’s personal injury plan obligations**  
4            **Section 101 (2)**

5            *substitute*

- 6            (2) The injured worker must comply with reasonable obligations  
7            imposed on the worker under the worker’s personal injury plan,  
8            including any obligation to receive medical treatment or  
9            rehabilitation services.

10          **22            Section 107**

11          *omit everything before subsection (2), substitute*

12          **107          Payment of cost of medical treatment and rehabilitation**  
13          **services for injured worker**

- 14          (1) The worker’s personal injury plan may provide for the insurer to pay  
15          the following costs:
- 16                  (a) the cost of any medical treatment for the workplace injury  
17                  provided to the worker by the nominated treating doctor if the  
18                  nominated treating doctor is prepared to take part in the  
19                  arrangements under the plan;
- 20                  (b) the cost of other medical treatment described in the plan that is  
21                  provided to the worker for the workplace injury;

1 (c) the cost of any rehabilitation services (including, if necessary,  
2 vocational rehabilitation) provided to the worker under the  
3 plan.

4 **Examples of other medical treatment for par (b)**

5 Treatment may be identified by reference to factors like the kind of medical  
6 treatment, the identity of the health care professional who provides the medical  
7 treatment, and the circumstances in which the medical treatment is provided.

8 *Note* An example is part of the Act, is not exhaustive and may extend, but  
9 does not limit, the meaning of the provision in which it appears (see  
10 Legislation Act, s 126 and s 132).

11 **23 Liability not affected**  
12 **Section 115 (b)**

13 *omit*

14 rehabilitation, retraining

15 *substitute*

16 rehabilitation services

17 **24 Regulation-making power**  
18 **Section 223 (2) (f) (iii)**

19 *substitute*

20 (iii) rehabilitation services;

21 **25 Dictionary, definition of *pension age***

22 *omit*

23 **26 Dictionary, new definition of *rehabilitation services***

24 *insert*

25 ***rehabilitation services*** includes training and retraining services.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2006.

**2 Notification**

Notified under the Legislation Act on 2006.

**3 Republications of amended laws**

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

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