

2016

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

# **Lifetime Care and Support (Catastrophic Injuries) Amendment Bill 2016**

## **Contents**

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	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Section 6	2
5 Purpose of Act	
Section 7 (a)	5
6 Section 8 heading	5
7 New section 8 (2)	5
8 Functions of LTCS commissioner	
Section 11 (2)	5

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## Contents

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	Page	
9	Section 11 (2), new note	5
10	Participation in LTCS scheme—eligibility Section 15 (1)	6
11	Section 15 (1), note 1	6
12	New section 15 (2A)	6
13	Section 15 (3)	6
14	Section 15 (3), note 1	6
15	Section 15 (4) (a)	7
16	Section 15 (4) (b)	7
17	LTCS scheme—initial application to participate Section 16 (2)	7
18	Section 16 (2) (c)	7
19	Section 16 (2) (c), note 3	7
20	Section 16 (6), except note	8
21	Section 16 (7)	8
22	Section 16 (8), definition of <i>insurer</i>	8
23	Sections 17, 20 (3) and 21 (2) (c)	9
24	Section 21 (2) (c), note 3	9
25	Section 22 heading	9
26	New section 22A	10
27	Sections 23 (1) and (2) (b) and 30 (5) (b)	10
28	Dispute about eligibility Section 34 (1)	10
29	Section 34 (1) (b)	11
30	Section 34 (1), note 3	11
31	Eligibility assessment panel—review of decision Section 38 (1) (b)	11
32	Section 38 (1) (b), note	11
33	Decision under this division binding Section 40 (1)	11
34	Division 7.2 heading	12
35	Definitions—div 7.2 Section 45, definition of <i>interested person</i> , new paragraph (d)	12
36	Section 47 heading	12

Contents

	Page	
37	Section 47 (1), except notes	12
38	Section 47 (1), new notes	13
39	Sections 48 to 52 headings	13
40	Section 59	13
41	Treatment and care assessor's determination—review Section 61 (3) (a)	14
42	New section 66A	14
43	Payment of hospital, ambulance, medical and other expenses not covered by bulk billing arrangement Section 70 (3) (c)	15
44	Definitions—div 10.1 Section 72, definition of <i>required contribution period</i>	15
45	Section 72, new definitions	15
46	Meaning of <i>contribution period</i> —div 10.1 Section 73 (1)	15
47	Section 73 (1), new notes	16
48	Appropriation of certain amounts for LTCS fund New section 78 (aa)	16
49	Payments from LTCS fund banking accounts New section 79 (2)	16
50	Investment of amounts in LTCS fund banking accounts Section 80 (6)	16
51	Section 80 (7)	17
52	Section 83 heading	17
53	Section 83 (1)	17
54	New section 83 (1A)	17
55	Section 83 (3)	18
56	Section 84	18
57	New sections 84A to 84C	19
58	Meaning of <i>present value of treatment and care liabilities</i> —div 10.2 Section 88	22
59	New section 90A	22
60	Exchange of information New section 94 (1) (aa) and (ab)	23
61	Section 94 (1) (b)	23

## Contents

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		Page
62	New section 94 (1A) and (1B)	23
63	Section 94 (2), definition of <i>information</i>	24
64	Dictionary, note 3	24
65	Dictionary, new note	24
66	Dictionary, new definitions	25
67	Dictionary, definition of <i>required fund contribution</i>	25
68	Dictionary, new definitions	26
<b>Schedule 1</b>	<b>Consequential amendments</b>	<b>27</b>
<b>Part 1.1</b>	<b>Workers Compensation Act 1951</b>	<b>27</b>
<b>Part 1.2</b>	<b>Workers Compensation Regulation 2002</b>	<b>35</b>

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## **Lifetime Care and Support (Catastrophic Injuries) Amendment Bill 2016**

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### **A Bill for**

An Act to amend the *Lifetime Care and Support (Catastrophic Injuries) Act 2014*, and for other purposes

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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 *Lifetime Care and Support (Catastrophic Injuries)*  
3 *Amendment Act 2016*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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 *Lifetime Care and Support (Catastrophic*  
10 *Injuries) Act 2014*.

11 *Note* This Act also amends the following legislation (see sch 1):

- 12 • [Workers Compensation Act 1951](#)
- 13 • [Workers Compensation Regulation 2002](#).

14 **4 Section 6**

15 *substitute*

16 **6 Application of Act**

17 (1) This Act applies only in relation to the following injuries:

- 18 (a) an injury (a *motor accident injury*) suffered by a person—
  - 19 (i) as a result of a motor accident that happened or happens  
20 in the ACT after 30 June 2014; and
  - 21 (ii) whether or not the person was at fault in the motor  
22 accident; and
  - 23 (iii) if at least 1 motor vehicle involved in the motor accident  
24 had CTP cover under the [CTP Act](#) at the time of the  
25 motor accident;

1 (b) an injury (a *work injury*) suffered by a worker if—

2 *Note* **Worker**—see the dictionary.

3 (i) the injury occurs after the later of the following:

4 (A) 30 June 2016;

5 (B) the date the *Lifetime Care and Support*  
6 *(Catastrophic Injuries) Amendment Act 2016* is  
7 notified; and

8 (ii) the injury arises out of, or in the course of, the worker's  
9 employment, within the meaning of the *Workers*  
10 *Compensation Act 1951*, section 31 (General entitlement  
11 to compensation for personal injury); and

12 (iii) the ACT is the Territory or State of connection in relation  
13 to the worker's employment.

14 *Note* **Territory or State of connection**—see the *Workers*  
15 *Compensation Act 1951*, s 36A.

16 (2) A regulation may make provision for or in relation to limiting the  
17 application of this Act to a stated class of people.

18 *Note 1* A reference to an Act includes a reference to a provision of an Act (see  
19 *Legislation Act*, s 7 (3)).

20 *Note 2* Power to make a statutory instrument (including a regulation) includes  
21 power to make different provision in relation to different matters or  
22 different classes of matters, and to make an instrument that applies  
23 differently by reference to stated exceptions or factors (see *Legislation*  
24 *Act*, s 48).

25 (3) For subsection (1) (a), a motor vehicle involved in a motor accident  
26 is taken to have had CTP cover under the *CTP Act* at the time of the  
27 motor accident if—

28 (a) a CTP policy was in force for the motor vehicle at that time; or

- 1 (b) a compulsory third-party insurance policy was in force for the  
2 motor vehicle under the law of a jurisdiction other than the  
3 ACT at that time; or
- 4 (c) the motor vehicle was owned by the Commonwealth, or an  
5 entity representing the Commonwealth, at that time; or
- 6 (d) there is a right of action against the nominal defendant under  
7 the [CTP Act](#) in relation to the motor accident; or
- 8 (e) there would be a right of action against the nominal defendant  
9 under the [CTP Act](#) in relation to the motor accident if the cause  
10 of the motor accident was the fault of the responsible person or  
11 driver of the motor vehicle in the use or operation of the motor  
12 vehicle.
- 13 (4) For subsection (1) (b) (ii), each of the following is an injury arising  
14 out of, or in the course of, the worker's employment:
- 15 (a) an injury received by a worker on an employment-related  
16 journey (within the meaning of the [Workers Compensation  
17 Act 1951](#), section 36 (Journey claims));
- 18 (b) an injury that is attributable to the worker's serious and wilful  
19 misconduct (within the meaning of the [Workers Compensation  
20 Act 1951](#), section 82 (When is compensation under Act  
21 generally not payable?)).
- 22 (5) However, this Act does not apply to an injury suffered by a worker  
23 if the injury—
- 24 (a) is intentionally self-inflicted; or
- 25 (b) is sustained as a result of the worker's engagement in  
26 professional sporting activity.
- 27 *Note* **Professional sporting activity**—see the [Workers Compensation  
28 Act 1951](#), dictionary.



1 **5 Purpose of Act**  
2 **Section 7 (a)**

3 *substitute*

4 (a) provide an indemnity insurance scheme to respond to the  
5 reasonable and necessary treatment and care needs of people  
6 who have suffered a catastrophic injury—

7 (i) in a motor accident; or

8 (ii) arising out of, or in the course of, their employment; and

9 **6 Section 8 heading**

10 *substitute*

11 **8 Terms used in other Acts**

12 **7 New section 8 (2)**

13 *after the notes, insert*

14 (2) A term used in the *Workers Compensation Act 1951* has the same  
15 meaning in this Act.

16 **8 Functions of LTCS commissioner**  
17 **Section 11 (2)**

18 *omit*

19 motor accident injuries

20 *substitute*

21 injuries to which this Act applies

22 **9 Section 11 (2), new note**

23 *insert*

24 *Note* Section 6 sets out the injuries to which this Act applies.

1 **10 Participation in LTCS scheme—eligibility**  
2 **Section 15 (1)**

3 *omit*

4 a motor accident injury

5 *substitute*

6 an injury

7 **11 Section 15 (1), note 1**

8 *substitute*

9 *Note 1* Section 6 sets out the injuries to which this Act applies.

10 **12 New section 15 (2A)**

11 *insert*

12 (2A) Despite the *Workers Compensation Act 1951*, section 83 (No  
13 compensation while imprisoned), a person with a workplace injury  
14 is eligible to participate in the LTCS scheme even though the person  
15 is imprisoned.

16 **13 Section 15 (3)**

17 *omit*

18 motor accident

19 **14 Section 15 (3), note 1**

20 *omit*

1 **15 Section 15 (4) (a)**

2 *omit*

3 a motor accident injury

4 *substitute*

5 an injury

6 **16 Section 15 (4) (b)**

7 *omit*

8 motor accident

9 **17 LTCS scheme—initial application to participate**  
10 **Section 16 (2)**

11 *omit*

12 the motor accident injury

13 *substitute*

14 the person's injury

15 **18 Section 16 (2) (c)**

16 *omit*

17 motor accident

18 **19 Section 16 (2) (c), note 3**

19 *omit*

1 **20 Section 16 (6), except note**

2 *substitute*

3 (6) The insurer may be directed to apply for the injured person to  
4 become a participant in the LTCS scheme by—

5 (a) if the injured person has a motor accident injury—the CTP  
6 regulator; or

7 (b) if the injured person has a work injury—the Minister or  
8 director-general responsible for the *Workers Compensation*  
9 *Act 1951*.

10 **21 Section 16 (7)**

11 *omit*

12 the CTP regulator's direction

13 *substitute*

14 a direction under subsection (6)

15 **22 Section 16 (8), definition of *insurer***

16 *substitute*

17 *insurer*—

18 (a) for a claim made by an injured person in relation to a motor  
19 accident injury, means—

20 (i) if the injured person is a CTP insured person—the CTP  
21 insurer for the person; or

22 (ii) if the injured person is not a CTP insured person—the  
23 nominal defendant; or

24 *Note* *CTP insured person*—see the *CTP Act*, s 16.

- 1 (b) for a claim made by an injured person in relation to a work  
2 injury, means—
- 3 (i) if the injured person’s employer is insured—the workers  
4 compensation insurer for the employer; or
- 5 (ii) if the injured person’s employer is self-insured—the  
6 employer; or
- 7 (iii) if the injured person’s employer is not insured—the DI  
8 Fund.
- 9 *Note* **DI Fund**—see the *Workers Compensation Act 1951*,  
10 dictionary.

11 **23 Sections 17, 20 (3) and 21 (2) (c)**

12 *omit*

13 motor accident

14 **24 Section 21 (2) (c), note 3**

15 *omit*

16 **25 Section 22 heading**

17 *substitute*

18 **22 Effect of LTCS scheme on motor accident claims etc**

1 **26 New section 22A**

2 *in part 4, insert*

3 **22A Effect of LTCS scheme on workers compensation claims**  
4 **etc**

5 (1) This Act does not limit or otherwise affect the application of the  
6 *Workers Compensation Act 1951* in relation to a work injury of an  
7 injured person who is, or is eligible to become, a participant in the  
8 LTCS scheme, except as provided by that Act.

9 (2) While an injured person is an interim participant in the LTCS  
10 scheme in relation to a work injury, time does not run for the  
11 *Workers Compensation Act 1951*, section 120 (Time for taking  
12 proceedings generally) or a provision of the *Limitation Act 1985* in  
13 relation to a cause of action on a claim for damages—

14 (a) relating to the work injury; or

15 (b) relating to any other injury suffered by the person as a result of  
16 the work injury.

17 **27 Sections 23 (1) and (2) (b) and 30 (5) (b)**

18 *omit*

19 motor accident

20 **28 Dispute about eligibility**  
21 **Section 34 (1)**

22 *omit*

23 a motor accident injury

24 *substitute*

25 an injury

1	<b>29</b>	<b>Section 34 (1) (b)</b>
2		<i>omit</i>
3		motor accident
4	<b>30</b>	<b>Section 34 (1), note 3</b>
5		<i>omit</i>
6	<b>31</b>	<b>Eligibility assessment panel—review of decision</b>
7		<b>Section 38 (1) (b)</b>
8		<i>omit</i>
9		motor accident
10	<b>32</b>	<b>Section 38 (1) (b), note</b>
11		<i>omit</i>
12	<b>33</b>	<b>Decision under this division binding</b>
13		<b>Section 40 (1)</b>
14		<i>omit</i>
15		a motor accident injury
16		<i>substitute</i>
17		an injury

1 **34 Division 7.2 heading**

2 *substitute*

3 **Division 7.2 Disputes about injuries**

4 **35 Definitions—div 7.2**  
5 **Section 45, definition of *interested person*, new**  
6 **paragraph (d)**

7 *insert*

8 (d) if the injured person is eligible to make a claim for payment  
9 against the DI fund—the DI fund manager.

10 *Note 1* **Claim for payment**—see the *Workers Compensation Act 1951*,  
11 s 170.

12 *Note 2* **DI fund** and **DI fund manager**—see the *Workers Compensation*  
13 *Act 1951*, dictionary.

14 **36 Section 47 heading**

15 *substitute*

16 **47 Dispute about injury—application**

17 **37 Section 47 (1), except notes**

18 *substitute*

19 (1) An interested person may, by written notice to the LTCS  
20 commissioner, dispute the commissioner’s decision about—

21 (a) whether an injury is an injury to which this Act applies; or

22 (b) for a work injury—whether the injured person is a worker.



1	<b>38</b>	<b>Section 47 (1), new notes</b>
2		<i>insert</i>
3		<i>Note 3</i> Section 6 sets out the injuries to which this Act applies.
4		<i>Note 4</i> <b>Worker</b> —see the dictionary.
5	<b>39</b>	<b>Sections 48 to 52 headings</b>
6		<i>substitute</i>
7	<b>48</b>	<b>Dispute about injury—referral to principal claims</b>
8		<b>assessor</b>
9	<b>49</b>	<b>Dispute about injury—review panel</b>
10	<b>50</b>	<b>Dispute about injury—reasonable legal costs</b>
11	<b>51</b>	<b>Dispute about injury—maximum legal costs</b>
12	<b>52</b>	<b>Dispute about injury—legal costs not payable</b>
13	<b>40</b>	<b>Section 59</b>
14		<i>substitute</i>
15	<b>59</b>	<b>Treatment and care assessor—cooperation of participant</b>
16		<b>etc</b>
17		(1) A participant in the LTCS scheme and, if the participant has a work
18		injury, the participant’s employer, must comply with any reasonable
19		request made to the participant by a treatment and care assessor in
20		relation to an assessment of the participant’s treatment and care
21		needs, including a request to undergo a medical or other
22		examination by a health practitioner.
23		<i>Note</i> <b>Health practitioner</b> —see the <a href="#">Legislation Act</a> , dictionary, pt 1.

- 1           (2) In this section:  
2                 *employer*, of a participant in the LTCS scheme with a work injury—  
3                 see the *Workers Compensation Act 1951*, section 87 (2).

4   **41           Treatment and care assessor’s determination—review**  
5   **Section 61 (3) (a)**

- 6                 *omit*  
7                 original

8   **42           New section 66A**

- 9                 *insert*

10 **66A          Contacting former LTCS interim participant**

- 11           (1) This section applies to a person (a *former participant*) who—  
12                 (a) has been an interim participant in the LTCS scheme; and  
13                 (b) because of the level of improvement in the person’s health, is  
14                 not eligible to be accepted as a lifetime participant.  
15           (2) The LTCS commissioner may contact the former participant directly  
16                 (whether or not the former participant has legal representation) in  
17                 relation to treatment or care the former participant received as a  
18                 participant in the LTCS scheme, including for the purpose of  
19                 assessing the effectiveness and efficiency of the scheme.

1 **43** **Payment of hospital, ambulance, medical and other**  
2 **expenses not covered by bulk billing arrangement**  
3 **Section 70 (3) (c)**

4 *omit*

5 at the rate

6 *substitute*

7 the rate

8 **44** **Definitions—div 10.1**  
9 **Section 72, definition of *required contribution period***

10 *omit*

11 **45** **Section 72, new definitions**

12 *insert*

13 *required fund contribution for motor accident injuries*—see  
14 section 83 (1).

15 *required fund contribution for work injuries*—see section 83 (1A).

16 **46** **Meaning of *contribution period*—div 10.1**  
17 **Section 73 (1)**

18 *after*

19 determined,

20 *insert*

21 in writing,

1 **47 Section 73 (1), new notes**

2 *insert*

3 *Note 1* Power to make the determination includes power to make different  
4 provision in relation to different matters or different classes of matters,  
5 and to make a determination that applies differently by reference to  
6 stated exceptions or factors (see [Legislation Act](#), s 48).

7 *Note 2* The power to make an instrument includes the power to amend or repeal  
8 the instrument (see [Legislation Act](#), s 46).

9 **48 Appropriation of certain amounts for LTCS fund**  
10 **New section 78 (aa)**

11 *after the note, insert*

12 (aa) fund levies paid under this part in relation to work injuries;

13 *Note* Section 84B deals with fund levies payable under this part in  
14 relation to work injuries.

15 **49 Payments from LTCS fund banking accounts**  
16 **New section 79 (2)**

17 *insert*

18 (2) To remove any doubt, a payment required to be made by the LTCS  
19 commissioner under part 6 in relation to an injury to which this Act  
20 applies is paid from the total amount appropriated under section 78  
21 for the purposes of the LTCS fund.

22 **50 Investment of amounts in LTCS fund banking accounts**  
23 **Section 80 (6)**

24 *omit*

25 subsection (4)

26 *substitute*

27 subsection (5)

1 **51 Section 80 (7)**

2 *omit*

3 subsection (3)

4 *substitute*

5 subsection (4)

6 **52 Section 83 heading**

7 *substitute*

8 **83 Determination of amounts to be contributed to LTCS fund**

9 **53 Section 83 (1)**

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

11 (1) Before the beginning of each contribution period relating to motor  
12 accident injuries, the LTCS commissioner must determine, in  
13 writing, the amount needed to be contributed to the LTCS fund in  
14 the contribution period (the *required fund contribution for motor*  
15 *accident injuries*)—

16 **54 New section 83 (1A)**

17 *insert*

18 (1A) Before the beginning of each contribution period relating to work  
19 injuries, the LTCS commissioner must determine, in writing, the  
20 amount needed to be contributed to the LTCS fund in the  
21 contribution period (the *required fund contribution for work*  
22 *injuries*)—

- 1 (a) to fully fund the present and likely future liabilities of the  
2 LTCS commissioner under part 6 (Payments under LTCS  
3 scheme) in relation to people who become participants in the  
4 scheme because of work injuries suffered during the  
5 contribution period; and
- 6 (b) to meet the payments needed to be made from the fund (other  
7 than payments under part 6) during the contribution period;  
8 and
- 9 (c) to provide for any other matters the LTCS commissioner  
10 should, in all the circumstances, prudently make provision for  
11 in relation to liabilities under part 6.

12 *Note 1* Power to make the determination includes power to make different  
13 provision in relation to different matters or different classes of matters,  
14 and to make a determination that applies differently by reference to  
15 stated exceptions or factors (see [Legislation Act](#), s 48).

16 *Note 2* The power to make an instrument includes the power to amend or repeal  
17 the instrument (see [Legislation Act](#), s 46).

18 **55 Section 83 (3)**

19 *after*  
20 required fund contribution  
21 *insert*  
22 for motor accident injuries or work injuries

23 **56 Section 84**

24 *substitute*

25 **84 Determination of LTCS levy**

- 26 (1) The LTCS commissioner must determine a levy (a *LTCS levy*) for  
27 each of the following:

- 1 (a) the contribution period for which a required fund contribution  
2 is determined in relation to motor accident injuries;
- 3 (b) the contribution period for which a required fund contribution  
4 is determined in relation to work injuries.
- 5 (2) A determination is a notifiable instrument.
- 6 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).
- 7 *Note 2* Power to make the determination includes power to make different  
8 provision in relation to different matters or different classes of matters,  
9 and to make a determination that applies differently by reference to  
10 stated exceptions or factors (see [Legislation Act](#), s 48).
- 11 *Note 3* The power to make an instrument includes the power to amend or repeal  
12 the instrument (see [Legislation Act](#), s 46).
- 13 (3) For subsection (1), each LTCS levy must be an amount that the  
14 LTCS commissioner reasonably believes will result in the required  
15 fund contribution for the contribution period being contributed to  
16 the fund.

## 17 **57 New sections 84A to 84C**

18 *insert*

### 19 **84A Determination of LTCS levy—motor accident injuries**

- 20 (1) The LTCS commissioner may determine a LTCS levy relating to  
21 motor accident injuries for a contribution period as any of the  
22 following:
- 23 (a) a fixed amount;
- 24 (b) a percentage of the premium payable for a CTP policy;
- 25 (c) a combination of a fixed amount and percentage of the  
26 premium payable for a CTP policy.

- 1 (2) A LTCS levy may be determined to differ according to any  
2 classification or other criteria for the determination of premiums for  
3 CTP policies as provided for by the CTP premium guidelines.

4 *Note 1* Power to make a statutory instrument in relation to a matter includes  
5 power to make a provision in relation to a class of matter (see  
6 [Legislation Act](#), s 48 (2)).

7 *Note 2* **CTP policy**—see the [CTP Act](#), s 18.  
8 **CTP premium guidelines**—see the [CTP Act](#), s 39.

9 **84B Determination of LTCS levy—work injuries**

- 10 (1) The LTCS commissioner may determine a LTCS levy relating to  
11 work injuries for a contribution period payable by a workers  
12 compensation insurer or self insurer as any of the following:

13 (a) a fixed amount;

14 (b) a percentage of—

15 (i) for a workers compensation insurer—the gross written  
16 premiums for the insurer; and

17 (ii) for a self-insurer—the notional gross written premium for  
18 the self-insurer;

19 (c) a combination of a fixed amount and percentage of the gross or  
20 notional gross written premiums.

- 21 (2) The LTCS guidelines may make provision in relation to the  
22 methodology for apportionment to be used for determining a LTCS  
23 levy relating to work injuries for a contribution period.

24 *Note* The LTCS guidelines are made under s 93.



- 1 (3) A LTCS levy relating to work injuries determined for a contribution  
2 period may differ according to any classification or other criteria for  
3 the determination of premiums for workers compensation policies as  
4 provided for by the *Workers Compensation Act 1951*.

5 *Note 1* A reference to an Act includes a reference to the statutory instruments  
6 made or in force under the Act, including any regulation (see  
7 *Legislation Act*, s 104).

8 *Note 2* Power to make a statutory instrument in relation to a matter includes  
9 power to make provision in relation to a class of matter (see  
10 *Legislation Act*, s 48 (2)).

11 *Note 3* *Gross written premiums, notional gross written premium* and  
12 *self-insurer*—see the *Workers Compensation Act 1951*, dictionary.

13 *Note 4* *Workers compensation insurer*—see the dictionary.

14 **84C Notice of LTCS levy—work injuries**

- 15 (1) If the LTCS commissioner determines a LTCS levy under  
16 section 84B, the commissioner must give each workers  
17 compensation insurer and self-insurer a written notice—  
18 (a) setting out the details of the levy; and  
19 (b) requiring the workers compensation insurer or self-insurer to  
20 pay the amount of the levy payable by the workers  
21 compensation insurer or self-insurer within the time stated in  
22 the notice.  
23 (2) If no time for payment is stated in the notice, payment must be made  
24 not later than 30 days after the day the workers compensation  
25 insurer or self-insurer receives the notice.

- 1 (3) If a workers compensation insurer or self-insurer does not pay the  
2 levy payable by the insurer or self-insurer within the time required  
3 under the notice given to the insurer or self-insurer, or within the  
4 time required under subsection (2), the amount of the levy is a debt  
5 owing to the Territory by the insurer or self-insurer.

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

- 8 (4) The LTCS commissioner may amend or revoke a notice given under  
9 this section.

10 **58** **Meaning of *present value of treatment and care***  
11 ***liabilities—div 10.2***  
12 **Section 88**

13 *omit*

14 motor accident

15 **59** **New section 90A**

16 *insert*

17 **90A** **Recovery of LTCS payments from uninsured employer**

- 18 (1) This section applies if—  
19 (a) a participant in the LTCS scheme has a work injury; and  
20 (b) when the work injury happened, the participant’s employer  
21 was uninsured.  
22 (2) The LTCS commissioner may recover as a debt from the employer  
23 the present value of the commissioner’s treatment and care liabilities  
24 in relation to the participant’s work injury.

1 (3) In this section:

2 *employer* does not include a self-insurer.

3 *uninsured*—an employer of a participant with a work injury is  
4 *uninsured* if the employer does not have a compulsory insurance  
5 policy that applies to the participant in relation to the participant's  
6 work injury.

7 *Note* *Compulsory insurance policy*—see the *Workers Compensation*  
8 *Act 1951*, s 144.

9 *Self-insurer*—see the *Workers Compensation Act 1951*, dictionary.

10 **60 Exchange of information**  
11 **New section 94 (1) (aa) and (ab)**

12 *insert*

13 (aa) a workers compensation insurer;

14 (ab) the DI Fund;

15 *Note* *DI Fund*—see the *Workers Compensation Act 1951*, dictionary.

16 **61 Section 94 (1) (b)**

17 *omit*

18 motor accident

19 **62 New section 94 (1A) and (1B)**

20 *insert*

21 (1A) If a participant in the LTCS scheme has a work injury, the LTCS  
22 commissioner may exchange information about the participant's  
23 treatment and care needs with the participant's employer only if the  
24 information relates to the employer's obligations under—

1 (a) the LTCS commissioner's assessment of the participant's  
2 treatment and care needs under section 23 (Assessment of  
3 participant's treatment and care needs); or

4 (b) the *Workers Compensation Act 1951*.

5 (1B) The exchange of information under this section must be in  
6 accordance with the LTCS guidelines.

7 *Note* The LTCS guidelines are made under s 93.

8 **63 Section 94 (2), definition of *information***

9 *substitute*

10 *information*, about the treatment and care needs of a participant in  
11 the LTCS scheme, includes—

12 (a) information used to make an assessment under section 23  
13 about the participant's treatment and care needs; and

14 (b) the expenses paid or payable by the LTCS commissioner under  
15 the scheme in relation to the treatment and care.

16 **64 Dictionary, note 3**

17 *omit*

- 18 • insurer

19 **65 Dictionary, new note**

20 *insert*

21 *Note 4* The *Workers Compensation Act 1951* contains definitions relevant to  
22 this Act. For example, the following terms are defined in the *Workers*  
23 *Compensation Act 1951*, dictionary:

- 24 • claim for payment  
25 • compulsory insurance policy (see s 144)  
26 • DI fund  
27 • DI fund manager

- 1 • gross written premiums
- 2 • notional gross written premium
- 3 • professional sporting activity
- 4 • self-insurer
- 5 • Territory or State of connection (see s 36A)
- 6 • worker.

## 7 **66 Dictionary, new definitions**

8 *insert*

9 ***claim***, in relation to an injury, means—

- 10 (a) for a motor accident injury—a motor accident claim; or
- 11 (b) for a work injury—a workers compensation claim.

12 *Note* ***Motor accident claim***, for a motor accident—see the [CTP Act](#), s 77.

13 ***CTP insurer***, in relation to a motor accident claim, means an insurer  
14 under the [CTP Act](#).

15 ***injury*** means an injury to which this Act applies.

16 *Note* Section 6 sets out the injuries to which this Act applies.

17 ***insurer***, for an injured person's claim, means—

- 18 (a) if the injured person has a motor accident injury—a CTP  
19 insurer; or
- 20 (b) if the injured person has a work injury—a workers  
21 compensation insurer or self insurer.

## 22 **67 Dictionary, definition of *required fund contribution***

23 *omit*

1 **68 Dictionary, new definitions**

2 *insert*

3 *required fund contribution for motor accident injuries*, for  
4 division 10.1 (Funding the LTCS scheme)—see section 83 (1).

5 *required fund contribution for work injuries*, for division 10.1  
6 (Funding the LTCS scheme)—see section 83 (1A).

7 *worker*, in relation to a work injury—see the [Workers](#)  
8 [Compensation Act 1951](#), chapter 3 (Meaning of worker).

9 *workers compensation claim* means a claim for compensation for a  
10 work injury under the [Workers Compensation Act 1951](#).

11 *workers compensation insurer*, in relation to a workers  
12 compensation claim, means an insurer approved by the Minister  
13 under the [Workers Compensation Act 1951](#), section 145.

14 *work injury* means an injury to a worker arising out of, or in the  
15 course of, the worker's employment.

# Schedule 1 Consequential amendments

(see s 3)

## Part 1.1 Workers Compensation Act 1951

### [1.1] New section 70 (2A) to (2C)

*insert*

(2A) Despite subsection (1) (a), (b) and (c), the employer is not liable to pay the costs of any treatment and care needs, or excluded treatment and care, of a worker who is a participant in the LTCS scheme—

(a) that relate to a work injury for which the worker is a participant in the scheme; and

(b) that arise while the worker is a participant in the scheme.

*Note* **Excluded treatment and care**—see the [LTCS Act](#), s 9.

**LTCS scheme**—see the [LTCS Act](#), dictionary.

**Participant**, in the LTCS scheme—see the [LTCS Act](#), dictionary.

**Treatment and care needs**, of a participant in the LTCS scheme—see [LTCS Act](#), s 9.

**Work injury**—see the [LTCS Act](#), dictionary.

(2B) Subsection (2A) applies—

(a) whether or not the treatment and care are assessed treatment and care needs under the [LTCS Act](#); and

(b) whether or not the LTCS commissioner is required to make a payment in relation to the treatment and care needs; and

(c) whether or not the treatment, care, support or services provided in connection with the treatment and care needs is provided without charge.

*Note* **LTCS Act**—see the dictionary.

**LTCS commissioner**—see the [LTCS Act](#), dictionary.

- 1 (2C) To remove any doubt, the employer is liable to pay the costs of any  
2 treatment and care needs, or excluded treatment and care, of a  
3 worker under subsection (1)—
- 4 (a) until the worker is accepted as a participant in the LTCS  
5 scheme; and
- 6 (b) if the worker ceases to be a participant in the LTCS scheme.

7 **[1.2] Section 82, new notes**

8 *insert*

9 *Note 1* The [LTCS Act](#) applies to an injury to a worker arising out of, or in the  
10 course of, the worker's employment, including an injury that is  
11 attributable to the worker's serious and wilful misconduct (see [LTCS](#)  
12 [Act](#), s 6 (4) (b)).

13 *Note 2* **LTCS Act**—see the dictionary.

14 **LTCS scheme**—see the [LTCS Act](#), dictionary.

15 **[1.3] Section 83, new notes**

16 *insert*

17 *Note 1* A worker with an injury to which the [LTCS Act](#) applies is eligible to  
18 participate in the LTCS scheme even though the worker is imprisoned  
19 (see [LTCS Act](#), s 15 (2A)).

20 *Note 2* **LTCS Act**—see the dictionary.

21 **LTCS scheme**—see the [LTCS Act](#), dictionary.



1 **[1.4] New section 96A**

2 *in part 5.4, insert*

3 **96A Application—pt 5.4**

4 (1) This part does not apply in relation to an injured worker who is a  
5 participant in the LTCS scheme.

6 *Note* **LTCS scheme**—see the [LTCS Act](#), dictionary.

7 **Participant**, in the LTCS scheme—see the [LTCS Act](#), dictionary.

8 (2) To remove any doubt, this part does apply in relation to an injured  
9 worker who ceases to be a participant in the LTCS scheme.

10 **Example**

11 an injured worker who is an interim participant in the LTCS scheme who is not  
12 accepted as a lifetime participant in the scheme

13 *Note* An example is part of the Act, is not exhaustive and may extend, but  
14 does not limit, the meaning of the provision in which it appears (see  
15 [Legislation Act](#), s 126 and s 132).

16 **[1.5] Section 97 (1), new note**

17 *insert*

18 *Note* This section does not apply if the injured worker is a participant in the  
19 LTCS scheme (see s 96A (1)).

20 **[1.6] Section 98 (1), new note**

21 *insert*

22 *Note* This section does not apply if the injured worker is a participant in the  
23 LTCS scheme (see s 96A (1)).

1 **[1.7] New part 5.5A**

2 *insert*

3 **Part 5.5A Obligations in relation to LTCS**  
4 **participants**

5 **110A LTCS participants—provision of information about**  
6 **assessment of treatment and care needs**

7 (1) This section applies if—

8 (a) an injured worker is a participant in the LTCS scheme in  
9 relation to a workplace injury for which an insurer is, or may  
10 be, liable to pay compensation; and

11 (b) the LTCS commissioner gives the insurer a copy of the  
12 assessment of the injured worker's treatment and care needs  
13 for the workplace injury under the [LTCS Act](#), section 23  
14 (Assessment of participant's treatment and care needs).

15 *Note* **LTCS Act**—see the dictionary.

16 **LTCS scheme**—see the [LTCS Act](#), dictionary.

17 **Participant**, in the LTCS scheme—see the [LTCS Act](#), dictionary.

18 (2) The insurer must give the employer and injured worker a statement  
19 to the effect that the worker's entitlement to weekly compensation  
20 may stop if the worker unreasonably fails to comply with the  
21 requirements of the assessment under the [LTCS Act](#), section 23.

22 *Note 1* The injured worker also has an obligation to comply with any  
23 reasonable request the LTCS commissioner makes in relation to an  
24 assessment of the injured worker's treatment and care needs, including a  
25 request that the injured worker undergo an examination by a health  
26 practitioner (see [LTCS Act](#), s 26).

27 *Note 2* The LTCS commission may exchange information about a LTCS  
28 participant's treatment and care needs with the participant's employer in  
29 certain circumstances (see [LTCS Act](#), s 94).

1 **[1.8] New section 137 (2A)**

2 *insert*

3 (2A) However, if the worker is eligible to participate in the LTCS  
4 scheme, before the worker commutes an existing right to  
5 compensation under subsection (1), the worker must apply under the  
6 [LTCS Act](#) to participate in the LTCS scheme.

7 *Note* [LTCS Act](#)—see the dictionary.

8 [LTCS scheme](#)—see the [LTCS Act](#), dictionary.

9 **[1.9] New section 142 (3A)**

10 *insert*

11 (3A) Also, this section does not apply if the worker is a participant in the  
12 LTCS scheme.

13 *Note* [LTCS scheme](#)—see the [LTCS Act](#), dictionary.

14 [Participant](#), in the LTCS scheme—see the [LTCS Act](#), dictionary.

15 **[1.10] New section 142A**

16 *insert*

17 **142A Vocational rehabilitation—LTCS participants**

- 18 (1) An employer commits an offence if—
- 19 (a) a worker engaged by the employer is a participant in the LTCS  
20 scheme in relation to a workplace injury; and
  - 21 (b) the LTCS commissioner gives the employer a copy of the  
22 assessment of the worker’s treatment and care needs for the  
23 workplace injury under the [LTCS Act](#), section 23 (Assessment  
24 of participant’s treatment and care needs); and
  - 25 (c) under the assessment, the employer is required to provide a  
26 service to assist the worker’s return to work; and

1 (d) the employer fails to provide the service.

2 Maximum penalty: 50 penalty units.

3 *Note* **Assessed treatment and care needs**—see the [LTCS Act](#), s 29.

4 **LTCS scheme**—see the [LTCS Act](#), dictionary.

5 **Participant**, in the LTCS scheme—see the [LTCS Act](#), dictionary.

6 (2) It is a defence to a prosecution for an offence against  
7 subsection (1) (d) if the defendant proves that the defendant had a  
8 reasonable excuse for failing to provide the service.

9 *Note* The defendant has a legal burden in relation to the matters mentioned in  
10 s (2) (see [Criminal Code](#), s 59).

11 **[1.11] Section 144 (1), definition of *compulsory insurance***  
12 ***policy, paragraph (a)***

13 *after*

14 of this Act

15 *insert*

16 (other than liability for assessed treatment and care needs of  
17 participants in the LTCS scheme)

18 **[1.12] Section 144 (1), definition of *compulsory insurance***  
19 ***policy, new note***

20 *insert*

21 *Note 2* **LTCS scheme**—see the [LTCS Act](#), dictionary.

22 **Participant**, in the LTCS scheme—see the [LTCS Act](#), dictionary.

1 **[1.13] New section 182EA**

2 *in part 9.3, insert*

3 **182EA Application to participate in LTCS scheme**

4 (1) This section applies if—

5 (a) a worker is proposing to make a claim for damages in relation  
6 to an injury for which a claim for compensation has been  
7 made, or may be made, under this Act or under the statutory  
8 workers compensation scheme of a place outside the ACT; and

9 (b) the worker is eligible to participate in the LTCS scheme in  
10 relation to the injury.

11 (2) Before the worker brings a court proceeding based on the claim  
12 against a respondent for the claim, the worker must apply under the  
13 [LTCS Act](#) to participate in the LTCS scheme.

14 *Note* [LTCS Act](#)—see the dictionary.

15 [LTCS scheme](#)—see the [LTCS Act](#), dictionary.

16 **[1.14] New part 9.4**

17 *insert*

18 **Part 9.4 LTCS scheme participants**

19 **186A LTCS scheme participant—no damages etc for treatment,**  
20 **care and support**

21 (1) This section applies to a person who is a participant in the LTCS  
22 scheme in relation to a workplace injury.

23 *Note* [LTCS scheme](#)—see the [LTCS Act](#), dictionary.

24 [Participant](#), in the LTCS scheme—see the [LTCS Act](#), dictionary.

1 (2) An award of damages or offer of settlement made to the person in  
2 relation to the workplace injury must not include an amount for the  
3 person's treatment and care needs, or any excluded treatment and  
4 care, that—

5 (a) relate to the workplace injury; and

6 (b) arise while the person is a participant in the LTCS scheme.

7 *Note* **Excluded treatment and care**—see the [LTCS Act](#), s 9.

8 **Treatment and care needs**, of a participant in the LTCS scheme—see  
9 the [LTCS Act](#), s 9.

10 (3) This section applies—

11 (a) whether or not the treatment and care needs are assessed  
12 treatment and care needs under the [LTCS Act](#); and

13 (b) whether or not the LTCS commissioner is required to make a  
14 payment in relation to the treatment and care needs; and

15 (c) whether or not the treatment, care, support or services provided  
16 in connection with the treatment and care needs is provided  
17 without charge on a gratuitous basis.

18 *Note* **LTCS Act**—see the dictionary.

19 **LTCS commissioner**—see the [LTCS Act](#), dictionary.

20 (4) In this section:

21 **workplace injury**—see section 86.

## 22 **186B Effect of payments under LTCS Act on limitation period**

23 (1) To remove any doubt, a payment made by the LTCS commissioner  
24 under the [LTCS Act](#) does not, for the [Limitation Act 1985](#),  
25 section 32 (Confirmation), confirm a cause of action under this Act.

1 (2) In this section:

2 *payment*, by the LTCS commissioner, means a payment that is  
3 made voluntarily or in accordance with a requirement under the  
4 [LTCS Act](#).

5 **[1.15] Dictionary, new definitions**

6 *insert*

7 *assessed treatment and care needs*, of a participant in the LTCS  
8 scheme—see the [LTCS Act](#), section 29.

9 *excluded treatment and care*—see the [LTCS Act](#), section 9.

10 *LTCS Act* means the [Lifetime Care and Support \(Catastrophic](#)  
11 [Injuries\) Act 2014](#).

12 *LTCS commissioner*—see the [LTCS Act](#), dictionary.

13 *LTCS scheme*—see the [LTCS Act](#), dictionary.

14 *participant*, in the LTCS scheme—see the [LTCS Act](#), dictionary.

15 *treatment and care needs*, of a participant in the LTCS scheme—  
16 see the [LTCS Act](#), section 9.

17 *work injury*—see the [LTCS Act](#), dictionary.

18 **Part 1.2 Workers Compensation**  
19 **Regulation 2002**

20 **[1.16] New section 75 (2A)**

21 *insert*

22 (2A) For subsection (2) (a), the amount of claims liabilities of the insurer  
23 does not include the treatment, care and support costs of a  
24 participant in the LTCS scheme.

25 *Note* *LTCS scheme*—see the [LTCS Act](#), dictionary.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 7 April 2016.

**2 Notification**

Notified under the [Legislation Act](#) on 2016.

**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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