

**THE LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**Government Amendments to the
Workers Compensation Amendment Bill 2001**

EXPLANATORY MEMORANDUM

**Circulated by authority of the
Minister of Urban Services**

**GOVERNMENT AMENDMENTS TO THE
WORKERS COMPENSATION AMENDMENT BILL 2000**

EXPLANATORY MEMORANDUM

CLAUSE 5 SUBSTITUTION

New Section 6C Compensation for Personal Injury

This section provides that subject to particular provisions within the section a worker who suffers personal injury arising out of, or in the course of, the worker's employment the worker is entitled to compensation. However, with respect to disease a worker who suffers an injury that is caused by a disease must be able to establish a causal relationship between the disease and their employment. That is to say, the worker's employment must have substantially contributed to the injury (the disease) for it to be an injury within the meaning of the Act.

This section also establishes that an injury suffered partly, or completely, because of a pre-existing diseased heart valve, coronary artery disease, aortic aneurism or cerebral aneurism, is only a work-related injury if the worker's employment substantially contributes to the injury.

Correction to 6C

The section numbered 6C(3)(c) was numbered incorrectly. It is now correctly numbered 6C(3)(b).

CLAUSE 14 PART 2A IS OMITTED AND SUBSTITUTED.

New Sections 15A, B, C, D, E Vocational rehabilitation

These sections deal with the concept and meaning of vocational rehabilitation. This section is a key element in changing the focus and nature of the scheme.

This amendment substitutes the term vocational retraining with vocational rehabilitation, as vocational rehabilitation is the term which is commonly understood.

CLAUSE 25 REGULATION-MAKING POWER

Section 30 is amended to increase the scope of the Act's regulation making power. This Government amendment enables the regulations to arbitrate on matters and questions arising under this Act, including the exclusion, or modification of, the *Commercial Arbitration Act 1985*.

CLAUSE 27 NEW DICTIONARY

New Definitions Meaning of Substantial, Vocational Rehabilitation

Section 2A defines what an injury is for the purposes of this Act. Importantly, injury means a physical or mental injury or a disease. There is now a test of substantial contribution attached to injuries caused by disease. The purpose of this change is to create a causal relationship between the workers employment and the contraction of a disease for the disease to be considered an injury within the meaning of the Act. For the purposes of this Act, substantial means real, actual or material and is now defined in the Dictionary at section 1A.

The Section 1A Dictionary is amended to substitute the term vocational retraining with vocational rehabilitation, where appropriate.

CLAUSE 29 LIMITATION ACT 1985

Clause 29 inserts an amendment into the Limitation Act 1985, numbered as section 16A. The amendment sets out the time limit for a claim for damages at common law in relation to a personal injury. The period in which a claim may be filed has been reduced from 6 years to 3 years.