

**THE LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY  
2004**

**WORKERS COMPENSATION AMENDMENT REGULATIONS 2004 (NO 1)**

**EXPLANATORY STATEMENT**

**Circulated by authority of the  
Minister for Industrial Relations  
Katy Gallagher MLA**

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## **1. Name of regulations**

This is a formal provision setting out the name of the regulations as the *Workers Compensation Amendment Regulations 2004 (No 1)*.

## **2. Commencement**

This is a formal provision specifying when the regulations commence operation. The regulations will commence on the day after they are notified.

## **3. Legislation amended**

This is a formal provision specifying the name of the principal regulations that are amended.

## **4. Regulation 87 (2)(b)(iii) Minister may exempt**

This clause substitutes a new subparagraph 87 (2)(b)(iii) (Minister may exempt).

An employer may make an application to the Minister under Regulation 86 for an exemption from the requirement under section 147 of the *Workers Compensation Act 1951* (the Act) to maintain a workers compensation insurance policy with an approved insurer.

If the Minister grants an exemption, the employer must meet the costs of all work-related injuries themselves, rather than obtaining a policy issued by an approved workers compensation insurer and being reimbursed by the insurer for the costs of work-related injuries. This is known as 'self-insurance'.

Currently the Minister may exempt an employer from the requirement to obtain workers compensation insurance if satisfied that:

- the employer is financially and prudentially sound;
- the employer will be able to meet their current and expected liabilities under the Act;
- the employer will be able to meet their obligations under the Act in relation to injury management programs and personal injury plans; and
- the employer will comply with any conditions on the exemption.

New subparagraph 87 (2)(b)(iii) will require the Minister to also be satisfied that the employer will be able to comply with its duties under the *Occupational Health and Safety Act 1989* (OHS Act), Part 3 before granting an exemption. The new provision will allow,

for example, the Minister to consider an employer's past record of work-related accidents in deciding whether to approve the employer's application to self-insure.

#### **5. New regulation 87(2)(c) Minister may exempt**

This clause inserts a new paragraph 87 (2)(c).

This new provision will also expand the list of matters that the Minister must be satisfied about in deciding whether to grant an exemption from the requirement for an employer to obtain a compulsory insurance policy under section 147 of the Act.

The new provision will require the Minister to refuse an application unless the Minister is satisfied that granting the exemption would not adversely affect the operation of the ACT workers compensation scheme as a whole.

The ACT private sector workers compensation scheme is small in comparison to other Australian workers compensation schemes. Granting exemptions to self-insure to a number of large employers could threaten the viability of the entire scheme, or result in unsustainable increases in workers' compensation costs for other businesses that are unable to self-insure.

#### **6. Regulation 97(2) Prescribed offences and fines**

Regulation 97 relates to Schedule 2 of the regulations which contains a list of on the spot fines and respective monetary penalties. This clause omits the words 'column 3' in sub regulation 97(2) and substitutes the words 'column 4'.

#### **7. Schedule 2 On the spot fines**

This clause substitutes a new Schedule 2 'On-the-spot fines'.

Schedule 2 relates to regulation 97 and includes a list of offences for which on-the-spot fines may be served under chapter 12 of the Act. The schedule also sets out the relevant fines for on-the-spot offences.

Amendments contained in the *Workers Compensation Amendment Act 2003 (No 2)* made offences contained in the Act consistent with the *Criminal Code 2002*. A number of offences were redrafted as strict liability offences and, as such, are suitable offences to be added to the list of 'on-the-spot fine' offences. The proposed new Schedule 2 contains additional offences for which 'on-the-spot fines' could be issued.