

1993

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

**WORKERS' COMPENSATION (AMENDMENT) BILL 1992**

**Amendments to be moved on behalf of the Government**

**SUPPLEMENTARY EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Minister for Industrial Relations**

**Wayne Berry MLA**

## WORKERS' COMPENSATION (AMENDMENT) BILL 1992

### Amendments to be moved on behalf of the Government

#### Explanatory Memorandum

The Workers' Compensation (Amendment) Bill 1992 ("the Bill") amends the *Workers' Compensation Act 1951* ("the Act") to facilitate the resolution of compensation claims for loss of hearing and to rectify an incorrect reference in Schedule 1, effected by the *Workers' Compensation (Amendment) Act 1991*.

#### Amendments 1 and 2

Amendments 1 and 2 amend proposed new section 9AA, inserted by *clause 4* of the Bill. New section 9AA applies section 9 of the Act, which relates to an employer's liability to pay compensation for death or incapacity through disease, so that the last employer of a worker, who employs that worker in work of a kind which contributes to, aggravates, accelerates or results in the recurrence of a loss of hearing by the worker, is liable to compensate the worker.

Amendment 1 omits the words "a disease that is" from proposed new section 9AA and amendment 2 inserts proposed new paragraph 9AA(a) to make it clear that a loss or a further loss of hearing is a disease for the purposes of section 9 of the Act.

#### Amendment 3

Amendment 3 to proposed new section 9AA is a consequential provision which renumbers the paragraphs in proposed new section 9AA as a result of the insertion of new paragraph 9AA(a).

#### Amendment 4

Amendment 4 amends proposed new paragraph 9AA(c) which has the effect of applying section 9 of the Act in relation to a disease that is a loss or further loss of hearing as if a new subsection 9(6) were inserted so that it is consistent with the language of paragraph 9(2)(c) of the Act which deems the contraction, aggravation, acceleration or recurrence of a disease to be a personal injury.

## Amendment 5

Amendment 5 rectifies an error in *clause 5* of the Bill which amends Schedule 1 of the Act.

Schedule 1 contains a formula for the calculation of compensation payable to an injured worker. Provisions of the *Workers' Compensation (Amendment) Act 1991*, which commenced upon its gazettal on 22 January 1992, introduced an incorrect reference into the formula for the calculation of the amount of weekly compensation payable to an incapacitated worker for the first 26 weeks of the incapacity as a result of which the amount of compensation payable in any particular case has been reduced.

*Subclause 5(1)* of the Bill is intended to amend Schedule 1 of the Act by correcting a reference in the formula for the calculation of compensation payable to a worker.

*Subclause 5(2)* is intended to apply the provisions of *subclause 5(1)* retrospectively - to the date of the commencement of the incorrect reference in the formula - 22 January 1992. However, *subclause 5(2)* erroneously applies the provisions of *subclause 5(1)* from 22 January 1991.

The amendment to *subclause 5(2)* of the Bill corrects this error by replacing the reference to the year "1991" with a reference to "1992".

*Subclause 5(2)* therefore applies the amendment in *subclause 5(1)* retrospectively, to 22 January 1992, to enable those workers who have been adversely affected to recover the difference between the amount of compensation they have received and the amount to which they would have been entitled had it not been for the incorrect references in Schedule 1.