

**2010**

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

**WORKERS COMPENSATION (DEFAULT INSURANCE FUND)  
AMENDMENT BILL 2010**

**EXPLANATORY STATEMENT**

**Presented by  
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Minister for Industrial Relations**



## **Workers Compensation (Default Insurance Fund) Amendment Bill 2010**

### **OUTLINE**

#### ***Objectives of legislation***

The purpose of the amending legislation is to:

- Ensure that the membership structure of the Default Insurance Fund Advisory Committee (the Committee) is conducive to it operating in an efficient, effective and professional manner;
- Provide greater clarity around the role and functions of the Committee.

#### ***The Committee – structure and functions under the Workers Compensation Act 1951***

The *Workers Compensation Act 1951* (the Act) establishes a statutory workers' compensation scheme for the Territory's private sector (the ACT Scheme), which obliges employers to compensate workers who suffer an injury that arises 'out of, or in the course of' their employment.

In 2006 the Default Insurer Fund (DI Fund) was established following the merger of the previous functions of two separate entities - the Nominal Insurer and the Workers' Compensation Supplementation Fund. The DI Fund provides a safety net to meet the cost of workers' compensation claims made against employers who have no insurance or claims against insurers who cannot meet their liabilities.

The DI Fund is co-located within the ACT Insurance Authority (ACTIA) and is managed by the DI Fund Manager, who is a public servant appointed by the Chief Executive under s 166C of the Act.

Schedule 3 to the Act establishes the Committee and requires that it perform the following functions:

- monitoring the operations of the DI Fund; and
- advising the Minister for Industrial Relations or the DI Fund Manager on matters in relation to the DI Fund.

The DI Fund Manager and the Chief Executive of the Chief Minister's Department (or delegate) are permanently appointed to the Committee and Schedule 3 requires

that a further 6 members be appointed by the Minister. Specifically, the Minister is required to appoint:

- 2 members nominated by a group that the Minister is satisfied represents employer interests;
- 2 members nominated by a group that the Minister is satisfied represents employee interests; and
- 2 members nominated by a majority of approved insurers.

***How will the objectives be achieved?***

*Membership structure – professional and effective industry representation*

The Committee’s representative membership structure is intended to ensure balanced and robust representation of the ACT government, employers, workers and insurers in relation to the provision of advice to the Minister or DI Fund Manager.

These objectives can be met through the reduction of the appointed membership of the Committee from 2 to 1 member of each of the employer, worker and insurer categories. This reduction will ensure that each category has an equal voice in the Committee’s operations while allowing it to function more efficiently and effectively.

Moreover, reduction of the size of the Committee would be consistent with the limited role and functions it is required to perform under the Act.

Accordingly, the Bill proposes amendments to reduce the appointed membership of the Committee from a total of 6 to a total of 3 members, consisting of 1 member with experience or expertise in relation to employers, 1 member with experience or expertise in relation to workers and 1 member with experience or expertise in relation to insurers. This will leave a total of 5 members on the Committee – 3 appointed members, the DI Fund Manager and the Chief Executive CMD (or delegate).

*Clarification of the Committee’s functions*

The Committee provides the Minister and the DI Fund Manager with a vehicle with which to gauge and receive feedback on the views of key stakeholders as they pertain to the Fund’s operations. This feedback may in turn inform the conduct of the DI Fund’s operations, the DI Fund Manager’s actions or the pursuit of policy development pertaining to the DI Fund by the Minister.

The Bill provides greater clarity around the functions of the Committee by expressly confirming that the Committee's primary role is to keep informed of the operations of the DI Fund for the purposes of providing advice to the Minister or the DI Fund Manager, as requested.

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### **Detail**

#### **Clause 1 — Name of Act**

This is a technical clause that names the Act. This Act is the *Workers Compensation (Default Insurance Fund) Amendment Act 2010*.

#### **Clause 2 — Commencement**

The Act has a staggered implementation as follows:

- Sections 7, 8, 9, 11 and 13 commence on the day after this Act's notification day; and
- All remaining sections commence on a day fixed by the Minister in written notice.

#### **Clause 3 — Legislation amended**

This clause identifies the Act to be amended, namely the *Workers Compensation Act 1951*.

#### **Clause 4 — Functions of Committee, Schedule 3, section 3.3(1)**

This section clarifies the scope of the Committee's functions. In particular, the amendment removes the language of 'monitoring the Fund's activities' and expressly provides that the Committee is to keep abreast of the DI Fund's activities for the sole purpose of providing advice, as requested, by the Minister or DI Fund Manager.

The section makes clear that the capacity of the Committee to provide advice is conditional upon either the DI Fund Manager or the Minister requesting that it do so.

#### **Clause 5 — Membership of Committee, Schedule 3, section 3.4(1)(c), except notes**

This section reflects the Government's intention to reduce the total number of representative members of the Committee from 6 to 3.

#### **Clause 6 — Schedule 3, section 3.4 (2)**

This section specifies that the Minister must appoint 3 members to the Committee on the basis of 1 member with experience or expertise in relation to employers, 1 member with experience or expertise in relation to workers and 1 member with experience or expertise in relation to insurers.

However, the amendment also removes the requirement for the appointed members to be nominated by relevant stakeholder groups. Rather, the Minister may appoint the members once satisfied they have suitable expertise, experience or skill.

#### **Clause 7 — Ending members' appointments, Schedule 3, section 3.6**

The *Workers Compensation Amendment Act 2009* in part introduced amendments that removed the DI Fund Actuary from the Committee's membership. In particular, that Act replaced the DI Fund Actuary with the Chief Executive (or delegate) of the Chief Minister's Department.

This section omits the reference to the DI Fund Actuary and its place substitutes the Chief Executive.

**Clause 8 — Time and place of Committee meetings, Schedule 3, sections 3.14(3)(b)**

Consistent with the reduction in overall membership of the Committee, this section amends the Act to require the chair of the Committee to call a meeting if asked by the Minister or any 2 members of the Committee.

**Clause 9 – Schedule 3, section 3.14 (4)**

This section will omit 3.14(4) from the Act consistent with the appointment of the Chief Executive CMD (or delegate) to the role of Chair of the Committee.

**Clause 10 – Schedule 3, section 3.14(5)**

This section will amend the Act to reflect the appointment of the Chief Executive CMD (or delegate) to the role of Chair of the Committee.

**Clause 11 – Presiding member at Committee meetings, Schedule 3, section 3.15(3)**

This section will amend the Act to reflect removal of the DI Fund Actuary from the Committee.

**Clause 12 — Quorum at Committee meetings, Schedule 3, section 3.16**

Consistent with the reduction in overall membership of the Committee, this section amends the Act to allow a meeting of the Committee to be carried out only if at least 2 members appointed by the Minister are present in addition to the Chief Executive or the DI Fund Manager.

The requirement for at least 2 representative members to be present at all Committee meetings reflects the overriding need for balanced representation in the discharge of the Committee's functions.

**Clause 13 — Voting at Committee meetings, Schedule 3, section 3.17**

This section will amend the Act to reflect removal of the DI Fund Actuary from the Committee.