

AUSTRALIAN CAPITAL TERRITORY

WORKMEN'S COMPENSATION SUPPLEMENTATION FUND ORDINANCE 1980

WORKMEN'S COMPENSATION (AMENDMENT) ORDINANCE 1980

1980 Nos.28 and 29.

EXPLANATORY STATEMENT

The Workmen's Compensation Supplementation Fund Ordinance 1980 establishes a scheme to provide for the payment of workmen's compensation claims against insurance companies which are in liquidation where the liquidator is either not able to meet the full amount of the claim or the amount of the claim cannot be met immediately. The first object of the legislation is to meet claims against Palmdale AGCI Limited, a company which went into liquidation on 7 January 1980, but the scheme will operate as a permanent arrangement.

The Ordinance establishes a Fund under the control of a Manager appointed by the Minister for the Capital Territory. The primary source of income for the Fund is a surcharge to be paid by employers on the premiums which they pay for policies of workmen's compensation insurance. Other income will be provided by interest on the investment of moneys of the Fund and moneys recovered by the Manager. Initially the Fund will operate on moneys borrowed for the Fund and guaranteed by those insurers in the ACT who are approved insurers for the purposes of the Workmen's Compensation Ordinance 1951.

Claims against an insurer which is unable to meet its liabilities under policies of workmen's compensation insurance will be forwarded by the liquidator to the Manager. The Manager will appoint an approved insurer to negotiate the claim, the terms of which, once settled, will be approved by the Court of Petty Sessions. The Manager will then pay the claimant through the liquidator.

In addition, the Ordinance will operate to ensure that any moneys recovered by the liquidator pursuant to contracts of re-insurance entered into by the insurer be paid to the Fund notwithstanding the provisions of the ACT Companies Ordinance 1962 with respect to the priority of payment of debts of a company in liquidation.

The Ordinance will operate retrospectively in order to provide for the payment of a substantial number of claims against Palmdale AGCI Limited.

The Victorian Government enacted legislation in 1975 to establish a fund similar to that which is established under the Workmen's Compensation Supplementation Fund Ordinance. The NSW Government has, this year, enacted legislation to deal specifically with claims on Palmdale AGCI Limited.

The Workmen's Compensation Ordinance 1951 currently imposes a requirement on employers that they maintain a policy or policies of insurance to cover the full amount of their liability under the Ordinance. The Workmen's Compensation (Amendment) Ordinance 1980 provides that where an order is made for the winding up of the insurer with which an employer has a policy or policies of workmen's compensation insurance the employer should obtain a new policy within 30 days of the date of the order.

This Ordinance also has a limited retrospective effect in that it requires employers affected by the liquidation of Palmdale AGCI Limited to obtain a new policy.

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