

**2013**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**WORKERS COMPENSATION AMENDMENT BILL 2013**

**EXPLANATORY STATEMENT**

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Presented by  
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# **Workers Compensation Amendment Bill 2013**

## **Outline**

### **Purpose of the Bill**

The *Workers Compensation Act 1951* allows for the cost of administering workers' compensation laws to be apportioned between workers' compensation insurers and self insurers. This Bill expands the scope of these provisions to allow for the costs of administering the *Work Health and Safety Act 2011* to be similarly apportioned.

These amendments will allow the Territory's work health and safety regime to become self sufficient and bring its funding model into alignment with NSW, Queensland and Victoria, which also fund work health and safety regulatory costs via a workers' compensation levy.

The Bill also enables all workers' compensation levies to be administered in a more efficient and streamlined manner. The *Workers' Compensation Act 1951* currently provides for Default Insurance Fund costs to be met by a levy on all workers' compensation insurers. The Default Insurance Fund is the Territory's safety net insurer. It provides workers' compensation benefits and services to injured workers whose employers do not hold a policy of insurance or if the insurer cannot meet their liabilities.

To provide for administrative efficiencies and reduce red tape for insurers, this Bill aligns the timing and method for apportioning the Default Insurance Fund and regulatory administration contribution amounts between insurers for a particular financial year.

### **Human Rights Considerations**

No provisions in this Bill engage rights under the *Human Rights Act 2004*.

See detail section, below.

# Workers Compensation Amendment Bill 2013

## Detail

### Part 1 — Preliminary

#### Clause 1 — Name of Act

This clause names the short title of the Act. The name of the Act would be the *Workers Compensation Amendment Act 2013*.

#### Clause 2— Commencement

This is a clause setting out when commencement of the Act will occur. It is intended that the Act will commence on the day after notification.

#### Clause 3— Legislation amended

This clause identifies the legislation amended by the Act. This Act amends the *Workers Compensation Act 1951*.

#### Clause 4 — Contributions to DI fund by approved insurers and self-insurers, section 168A (2)

This clause clarifies that the Default Insurance Fund Manager must express the amount of a workers' compensation insurer's annual monetary contribution to the Default Insurance Fund as a percentage of the gross workers' compensation premium written by the insurer during the year in question, or as a percentage of notional gross written premium for the year in question in the case of a self insurer.

This approach ensures that the amount of an insurer's annual contribution is proportionate to their share of the workers' compensation market. It will also allow for contributions to the Default Insurance Fund and contributions to workers' compensation legislation administrative costs to be managed consistently.

#### Clause 5 – Section 168A (6), new note

This clause inserts a note within section 168A (6) of the *Workers Compensation Act 1951*. The new note clarifies that amounts owed to the Default Insurance Fund by insurers or self insurers may be recovered as a debt, in accordance with section 177 of the *Legislation Act 2001*.

#### Clause 6 – Section 168A (8), definitions of *gross written premiums* and *notional gross written premium*

In conjunction with clause 13, this clause provides for the definitions of *gross written premiums* and *notional gross written premium* to be relocated to the Dictionary of the *Workers Compensation Act 1951*.

### **Clause 7 – Supplementary contributions to DI fund by approved insurers and self-insurers, section 168AA (3)**

This clause aligns the methodology for the apportionment of supplementary contributions to the Default Insurance Fund with the methodology in new clause 168A (2). Specifically, it provides that in the event that a supplementary contribution is determined to be required under section 168AA of the *Workers Compensation Act 1951*, the Default Insurance Fund Manager must apportion that amount between insurers as a percentage of their gross written premium for the year in question, or as a percentage of notional gross written premium for the year in question in the case of a self insurer.

### **Clause 8 – Effect of payment of claims, section 171I (1) (c), new note**

This clause inserts a note within section 171(1) (c) of the *Workers Compensation Act 1951*. The new note clarifies that a debt owed to the Default Insurance Fund by an employer may be recovered in accordance with section 177 of the *Legislation Act 2001*.

### **Clause 9 – Application of pt 8.3 to insurers, section 179A (3), definition of insurer's market share**

Section 179A (3) of the *Workers Compensation Act 1951* refers to the section 210(1) heading. This clause is to update that reference so that it reflects the amended section 210(1) heading.

### **Clause 10 – Section 210**

This clause provides that the liability for the cost of administering the *Work Health and Safety Act 2011* and *Workers Compensation Act 1951* for a financial year may be apportioned among entities that were workers' compensation insurers or self insurers during that year.

This clause also allows costs to be estimated and collected from insurers in advance of their having been incurred and establishes a mechanism whereby any over or under collection of monies due to inaccurate cost estimates are corrected by adjustments to the apportionment for a later financial year.

Furthermore, this clause allows the amount apportioned to insurers to be expressed as either an amount in dollars or, for a workers' compensation insurer, as a percentage of their gross written premiums for the financial year in question, or, in the case of a self insurer, as a percentage of their notional gross written premium.

### **Clause 11 – Section 211 heading**

This clause modifies the heading of section 211 of the *Workers Compensation Act 1951* to reflect that the new section 211 applies to the cost of administering the *Work Health and Safety Act 2011* and the *Workers Compensation Act 1951*.

### **Clause 12 – Section 211**

This clause modifies section 211 of the *Workers Compensation Act 1951*. The new section 211 allows the costs of administering the *Work Health and Safety Act 2011*

and the *Workers Compensation Act 1951* to be paid out of amounts received under section 210.

### **Clause 13 – Dictionary, new definitions**

In conjunction with clause 6, this clause provides for the definitions of *gross written premiums* and *notional gross written premium* to be relocated to the Dictionary of the *Workers Compensation Act 1951*.

This clause also inserts a new defined term in the Dictionary of the *Workers Compensation Act 1951*. The new defined term is *workers compensation and safety legislation*. This term is used elsewhere in the Act, including in the new sections 210 and 211 to describe the types of administrative costs which are able to be apportioned to workers' compensation insurers and self insurers.