

**2008**

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

**WORKERS COMPENSATION AMENDMENT BILL 2008**

**EXPLANATORY STATEMENT**

**Presented by  
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## **WORKERS COMPENSATION AMENDMENT BILL 2008**

### **Outline**

The *Workers' Compensation Act 1951* establishes a statutory, no-fault insurance scheme for the Territory's private sector workforce. Should a worker have the misfortune to suffer an injury out of, or in the course of, their employment, the scheme offers injured workers a range of income support. This may include covering the cost of medical treatment and subsequent injury management and rehabilitation expenses, or income replacement payments.

Significant changes were made to the scheme in 2001 which introduced extensive rehabilitation and return-to-work provisions. Those changes placed a greater emphasis on an improved injury management process with a vision to the long-term future for an injured worker. As the effects of the changes are still being measured, only minor policy amendments have been introduced since.

The Workers Compensation Amendment Bill 2008 is another of these minor policy changes and brings the ACT into line with a majority of other jurisdictions, most importantly NSW and the Commonwealth. It aims to clarify that, should an injured worker have to modify their home to make their lives more comfortable following a work-related injury, including making structural changes that would improve access or facilitate greater usability, it is reasonable that their employer (or their employer's insurer) should be required to cover those costs.

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### **Detail**

#### **Clause 1 — Name of Act**

This clause establishes the name of the Act as the *Workers Compensation Amendment Act 2008*.

#### **Clause 2 — Commencement**

This is a formal provision specifying when the Act commences operation. The provisions of the Act will commence the day after notification.

#### **Clause 3 — Legislation Amended**

This is a formal provision specifying the name of the Act that is amended: the *Workers Compensation Act 1951*.

#### **Clause 4 — New Section 70 (1) (aa)**

This clause inserts a new section 70(1)(aa) in Part 4.5 of the Act. This new section will enable injured workers, as part of their medical treatment and the rehabilitative process, to alter their home or otherwise change their domestic living environment to better accommodate a work-related injury, and, in keeping with the intent of the Act, allows them to be compensated for the costs of making those changes.

#### **Clause 5 — New Section 73A and 73B**

This clause inserts new sections 73A and 73B.

73A is an exhaustive statement of the things that should be taken into account when a worker seeks compensation for the costs of making home alterations. Sub-clauses cover:

- 73A (a): how long their injury is likely to last, so that a long term injury would usually present a stronger case for compensation for structural alterations than a short term temporary injury;
- 73A (b): the terms ‘access’ and ‘reasonable freedom of movement’ used in this sub-clause point to the domestic environment that the injured worker currently faces and what would be reasonably required in making their daily life more livable. Considering (b) takes into account what is required to increase the usability of an injured workers place of residence or the kinds of things that may facilitate greater independence for chronically injured workers; and
- 73A (c): where a worker receives compensation under this section (i.e. for alterations to their existing home) and they sell that residence, should they move to a new home and seek a second amount of compensation for home alterations, the second amount of compensation they receive will be reduced by the amount that the first home’s value was improved by the alterations. In other words, any windfall they receive in selling their first altered home will lessen any amount of compensation received for subsequent home alterations.

73B provides for a regulation making power to prescribe (a) what kinds of alteration costs are compensable, and (b) the situations in which an injured worker would reasonably require such alterations.