

**2014**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**WORKERS COMPENSATION (CROSS-BORDER WORKERS)  
AMENDMENT BILL 2014**

**EXPLANATORY STATEMENT  
SEPTEMBER 2014**

Presented by  
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# **Workers Compensation (Cross-border Workers) Amendment Bill 2014**

## **Outline**

### **Purpose of the Bill**

Some workers perform duties in more than one state or territory. These employees are known as *cross-border* workers and they are relatively common in the ACT.

Australian workers' compensation arrangements are intended to operate so that an employer should only have to insure each of their employees in a single workers' compensation jurisdiction. This is the worker's state or territory of connection.

The method for determining a worker's state or territory of connection are set out by Part 4.2A of the *Workers Compensation Act 1951*. This Bill amends Part 4.2A to align the Territory's cross-border state of connection tests with updated national rules.

The national rules for determining a cross-border worker's state or territory of connection contain three main tests which are considered sequentially:

1. where a worker *usually works*
2. where a worker is *usually based*, or
3. the location of the employer's *principal place of business in Australia*.

### **Human Rights Considerations**

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

See detail section, below.

# **Workers Compensation (Cross-Border Workers) Amendment Bill 2014**

## **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 (Cross-Border Workers) Amendment Act 2014*.

#### **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 — Employment connection test section 36B (6), new examples**

This clause inserts two examples into section 36B (6) of the *Workers Compensation Act 1951* to assist with determining where a worker *usually works*.

The first example outlines a situation where the worker would be deemed to work in a single jurisdiction and the second example illustrates a situation where a worker usually works in more than one jurisdiction.

#### **Clause 5 – New section 36B (6A) and (6B)**

This clause inserts two new sections into the *Workers Compensation Act 1951* – 36B (6A) and 36 (6B).

Section 36B (6A) inserts a test that must be considered when determining where a worker is *usually based* for the purposes of section 36B (3)(b). Section 36B (6A) also inserts examples to assist in determining where a worker is usually based. The first example outlines a situation where the worker would be deemed to be based in a single jurisdiction and the second example illustrates a situation where a worker is based in more than one jurisdiction.

Section 36B (6B) inserts a test that must be considered when determining an employer's *principal place of business in Australia* for the purposes of section 36B (3)(c).

#### **Clause 6 – Section 36B (8), new definitions**

This clause inserts three new definitions into section 36B (8) of the *Workers Compensation Act 1951*. The definitions of *ABN*, *ASIC* and *Australian Business Register* have been inserted to support the principal place of business test in section 36B (6B).