

2016

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

WORKERS COMPENSATION AMENDMENT BILL 2015

SUPPLEMENTARY EXPLANATORY STATEMENT

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Minister for Workplace Safety and Industrial Relations

Supplementary Amendments to the Workers' Compensation Amendment Bill 2015

Overview of the Amendments

These changes amend the *Workers Compensation Amendment Bill 2015* (the Bill).

Significantly, the Bill has been amended to include a specific defence for employers against prosecution for failure to take reasonable steps to comply with their duties under the return to work provisions. The defence has been drafted in accordance with s59 of the *Criminal Code 2002*.

Additional clarity has been provided regarding the content of the return to work coordinator register, making expressly clear that only the workplace contact information for return to work coordinators is to be collected. These revisions are included to ensure that the Territory meets its responsibilities with respect to the collection and use of information and to ensure the privacy of coordinators is not jeopardised.

The other amendments included in this Bill are around wording and to ensure consistency of terminology aligning more closely the Inspector Powers between those of the *Workers Compensation Act 1951* to those in the *Work Health and Safety Act 2011*.

Human Rights Considerations

The right to privacy has been considered in this Bill in accordance with the *Human Rights Act 2004* (the HR Act). The HR Act demonstrates the growing influence in the common law world of human rights protection models that seek to distribute responsibility for protecting rights between the branches of government.

One of the aims of the Act is to balance responsibilities for rights. Both the right to privacy and reputation and the limitations on right to privacy in accordance with sections 12 and 28 of the HR Act have been taken into consideration when amending the Inspectors right of entry powers and introduction of a return-to-work coordinator.

Supplementary Clause Notes

Amendment 1

Clause 4— Proposed new section 103E (1) (b) (i)

This clause omits the word 'satisfactorily'. The clause mandates a requirement for a person to not be appointed as a return-to-work coordinator unless they have satisfactorily completed training as determined by the Minister.

Amendment 2

Clause 4— Proposed new section 103E (5)

Page 5, line 10-

This amendment inserts a new defence provision allowing an employer to prove that they took reasonable steps to comply with their duties under these provisions.

Amendment 3

Clause 4— Proposed new section 103F(2) (e)

Page 5, line 20-

This amendment inserts 'workplace' before telephone. This is to ensure the provision only collects workplace information to not impede on ones privacy.

Amendment4

Clause 4— Proposed new section 103F(2) (f)

Page 5, line 21-

This amendment inserts 'workplace' before email. This is to ensure the provision only collects workplace information to not impede on ones privacy.