

WORK HEALTH AMENDMENT BILL 2008
SERIAL NO. 135

LEGISLATIVE ASSEMBLY OF THE
NORTHERN TERRITORY

MINISTER FOR EMPLOYMENT, EDUCATION AND TRAINING

EXPLANATORY STATEMENT

GENERAL OUTLINE

This Bill proposes amendments to the *Workers Rehabilitation and Compensation Act* (the Act).

The purpose of the Bill is to amend the Act to: improve the efficiency of the workers' compensation scheme's mediation process; to provide for the deeming of certain claims to be accepted; and to remove an anomaly which sees certain volunteers being able to access benefits in addition to those provided to other injured Territory workers.

The Bill will improve the efficiency of the mediation process by requiring the full disclosure of all medical reports during the process and reducing the timeframe for mediation to be concluded from 28 days to 21 days.

The Bill provides that the employer of an injured worker will make a timely decision to either accept or deny liability for a claim, following an initial decision to defer, by providing that the claim will be deemed to have been accepted if the employer fails to make a decision on a claim within 56 days of the decision to defer or other such time as required by the Act.

The Bill removes the current capacity for injured prescribed volunteers to receive workers' compensation benefits for life, on top of salary from full time employment, unlike the scheme provisions for other workers.

NOTES ON CLAUSES

Clause 1. Short Title

This is a formal clause which provides for the citation of the Bill. The Bill when passed may be cited as the *Workers Rehabilitation and Compensation Act 2008*.

Clause 2. Commencement

This Act commences on the date fixed by the Administrator by notice in the *Gazette*.

Clause 3. Act amended

The Act amends the *Workers Rehabilitation and Compensation Act*.

Clause 4. Amendment to section 64 (Compensation during first 26 weeks of incapacity)

Consequential amendment in line with the revision of section 66 (Clause 5).

Clause 5. Substitution of section 66

This clause repeals the current section 66 and replaces it with a provision which removes the ability for prescribed volunteers to receive workers' compensation benefits for life on top of salary from full time employment.

Sub-clause (1) Provides a safety-net level of benefit being not less than 50 per cent of average weekly earnings, which currently amounts to \$516.50 per week.

Sub-clause (2) Defines 'volunteer' for this section, which generally is a person who without remuneration assists the Northern Territory pursuant to the *Disasters Act*, *Bushfires Act* and the *Fire and Emergency Act*.

Clause 6. Amendment of section 87 (Failure to decide within specified time)

Sub-clause (2) Provides that if an employer who initially deferred making a decision to either accept or dispute liability, fails to make that decision and notify the worker of their decision within 56 days, the claim will be deemed to have been accepted and the employer will have to pay all benefits pursuant to Sections B (financial) and D (treatment) of Division 3.

sub-sub clause (a) The deeming of the claim to be accepted remains in force for 14 days after the worker is finally notified of the employer's decision to either accept or dispute liability for the claim. In cases where the claim is denied, this extra 14 days' payment serves as an incentive to employers to make a decision on a claim within the first 56

days.

Sub-clause (3) Describes what constitutes ‘notification’ for the purposes of section 87(1)(a) and (2)(a). If notification has not been provided in accordance with section 85(6) and when necessary section 85(8) and section 85(9), then the requirements have not been met and notification has not occurred and the deferral period continues.

Clause 7. Amendment to section 103C (Mediators)

Repeals a sub-section of the current Act and replaces it with one which provides a mediator with the power to require a party to the dispute to provide to the mediator, or another party to the dispute, specified materials.

Clause 8. Amendment to section 103D (Application for and conduct of mediation)

Sub-clause (2A) (a) Requires full disclosure to the Authority of all written medical reports relevant to the dispute prior to a mediation conference.

Sub-clause (2A) (b) Requires full disclosure of all written materials in the party’s possession or control on which the party relied when forming the decision which lead to the dispute.

Sub-clause (2B) Requires the Authority to provide the medical reports and other materials to the mediator who will provide them to the parties.

Sub-clause (2) Reduces the timeframe required for the completion of the mediation process from 28 to 21 days.