

## **Motor Accidents Legislation Amendment Bill 2003**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

#### **Overview of Bill**

The claims procedures of the *Workplace Injury Management and Workers Compensation Act 1998* and the scheme under the *Workers Compensation Act 1987* for determining common law damages do not apply to claims against an employer for damages for death or injury arising from a motor accident occurring in the course of employment. Instead, the claims procedures and scheme for determining common law damages under the *Motor Accidents Act 1988* and the *Motor Accidents Compensation Act 1999* apply to such claims. The object of this Bill is to insert new provisions in the *Motor Accidents Act 1988* and the *Motor Accidents Compensation Act 1999* to reverse this position if:

- (a) the motor accident did not arise from the use or operation of a motor vehicle on a road or road related area, and
- (b) there is no motor accident insurer on risk (including any insurer under a third-party policy) in respect of the motor accident and there is no right of action against the Nominal Defendant.

The Bill contains transitional provisions that extend the operation of the new provisions to motor accidents occurring before the commencement of those new provisions, but not so as to affect court proceedings commenced before 5 December 2002 (being the date on which the Minister made a statement in the Legislative Council to the effect that the amendments made by the Bill would commence from that date).

#### **Outline of provisions**

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Motor Accidents Act 1988* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Motor Accidents Compensation Act 1999* set out in Schedule 2.

**Clause 5** is a formal provision that gives effect to Schedule 3 which inserts a note to section 151E of the *Workers Compensation Act 1987* and a note to the definition of **work injury damages** in section 250 (1) of the *Workplace Injury Management and Workers Compensation Act 1998*.

#### **Schedule 1 Amendment of Motor Accidents Act 1988**

This Schedule sets out the amendments to the *Motor Accidents Act 1988* explained in the Overview.

#### **Schedule 2 Amendment of Motor Accidents Compensation Act 1999**

This Schedule sets out the amendments to the *Motor Accidents Compensation Act 1999* explained in the Overview.

#### **Schedule 3 Amendment of workers compensation legislation**

This Schedule inserts a note into the *Workers Compensation Act 1987* to alert readers to the effect of the proposed provisions explained in the Overview in relation to the award of common law damages. It also inserts a note into the *Workplace Injury Management and Workers Compensation Act 1998* to alert readers to the effect of the proposed provisions explained in the Overview in

relation to the claims procedures of that Act.