

Workers Compensation Legislation Amendment (Trainees) Bill 2003

Explanatory note

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

Overview of Bill

Section 155 of the *Workers Compensation Act 1987* (**the 1987 Act**) requires employers (other than self-insurers) to take out certain policies of insurance in respect of their liability in respect of workers employed by them. Section 158 of the Act exempts employers of certain trainees from this requirement and deems them to be holders of policies of insurance in respect of their liability with the Insurance Ministerial Corporation (the insurance premiums for these deemed policies are funded from the Consolidated Fund). **Worker** is defined for the purposes of the 1987 Act and the *Workplace Injury Management and Workers Compensation Act 1998* (**the 1998 Act**) in the 1998 Act (under section 2A of the 1987 Act the two Acts are construed together as if they were one Act). The definition makes it clear that apprentices are workers but does not at present specifically refer to trainees. However, it can clearly be inferred from section 158 of the 1987 Act that, as the employers of trainees need to be exempted from the insurance requirements of the 1987 Act, it is intended that they be treated as workers for the purposes of the Acts.

The objects of this Bill are:

- (a) to repeal section 158 of the 1987 Act to remove the current exemption of employers of trainees from the insurance requirements imposed under section 155 of that Act, and
- (b) to amend the 1987 Act so that employers who currently benefit from the exemption will have up to a year to comply with those requirements, and (c) to amend the 1998 Act to put it beyond doubt that trainees are workers for the purposes of the Acts, and
- (d) to make consequential amendments to the 1987 Act, the 1998 Act and the *Workers Compensation Regulation 2003*.

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 1 January 2004.

Clause 3 is a formal provision that gives effect to the amendments to the *Workers Compensation Act 1987* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Workplace Injury Management and Workers Compensation Act 1998* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendment to the *Workers Compensation Regulation 2003* set out in Schedule 3.

Schedule 1 Amendment of Workers Compensation Act 1987

Schedule 1 [3] repeals section 158 of the 1987 Act as described in paragraph (a) of the Overview of the Bill. This will require an employer to take out the insurance required by section 155 of the 1987 Act in respect of any person entering into a traineeship with the employer on or after 1 January 2004.

Schedule 1 [8] inserts Part 18G into Schedule 6 to the Act to achieve the object described in paragraph (b) of the Overview (proposed clause 2). Clause 2 will ensure that a person who is employing a trainee (other than an **existing worker trainee** as defined in the *Apprenticeship and Traineeship Act 2001*) immediately before the repeal will not need to obtain a policy of insurance as required by section 155 of the 1987 Act until 31 December 2004, or the end of the traineeship, whichever first occurs. The full amount of the employer's liability under the 1987 Act in respect of such a trainee and an unlimited amount in respect of the employer's liability independently of the 1987 Act (not including a liability for workers

compensation arising under any Act of another jurisdiction) for any injury to the trainee will continue to be covered until then by the policy of insurance currently deemed to be held with the Insurance Ministerial Corporation under section 158, which is continued in force for this purpose by clause 2.

Schedule 1 [4], [6] and [7] contain amendments that are consequential on the repeal of section 158 of the 1987 Act.

Schedule 1 [1], [2] and [5] contain amendments that are consequential on the amendment to the definition of *worker* described in paragraph (c) of the Overview of the Bill (see also **Schedule 2 [2]**).

Schedule 1 [9] amends clause 1 (1) of Part 20 of Schedule 6 to the 1987 Act to enable the making of savings and transitional regulations.

Schedule 2 Amendment of Workplace Injury Management and Workers Compensation Act 1998

Schedule 2 [2] contains the amendment to the definition of *worker* in section 4 of the 1998 Act described in paragraph (c) of the Overview of the Bill.

Schedule 2 [1] and [3] contain consequential amendments.

Schedule 3 Amendment of Workers Compensation Regulation 2003

Schedule 3 contains an amendment that is consequential on the repeal of section 158 of the 1987 Act.

Schedule 1 [8] makes a consequential amendment to insert proposed clause 2 (4) of Part 18G into Schedule 6 to the 1987 Act.