

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the Workers Compensation Act 1987 (the 1987 Act) as follows:

- (a) to remove the need for employers paying wages of less than a certain amount (\$7,500 or such other amount as may be fixed by an insurance premiums order) to obtain a workers compensation insurance policy,
- (b) to make it clear that an employer must have a single workers compensation policy covering all the employer's workers,
- (c) to align the period for which an employer must keep wages records with parallel Victorian and Australian Taxation Office requirements,
- (d) to provide for the recovery of compliance audit costs from employers who fail to obtain workers compensation insurance,
- (e) to ensure that WorkCover has sufficient power to obtain and manage security deposits by self-insurers and former self-insurers so that ongoing workers compensation liabilities (including for dust diseases) are provided for,
- (f) to restrict new applications for licences endorsed with a specialised insurer endorsement.

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 the date of assent.

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 provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Insurance arrangements

The 1987 Act requires all employers to take out workers compensation insurance to cover their liabilities to their workers.

Schedule 1 [1] prohibits an employer from having more than one workers compensation insurance policy in force at any one time, so that an employer will have to have just one policy covering all the employer's workers. Schedule 1 [3]–[8] provide for the recovery by WorkCover from an employer of an amount equal to double the amount of premium that the employer has avoided by having more than one policy of insurance.

Schedule 1 [2] exempts an employer from the requirement to take out a workers compensation insurance policy if the employer is not going to be paying wages above a certain level (being \$7,500 or such other amount as may be fixed by an insurance premiums order). Such an employer will be deemed to have been issued with a workers compensation insurance policy by the Nominal Insurer. If a claim is made, the employer will be required to pay an administration fee for the claim. The new arrangements will not apply to employers who employ apprentices or to group employers.

Schedule 1 [9] decreases from 7 years to 5 years the period for which an employer must keep wages records (to align the requirement with Victorian and Australian Taxation Office requirements).

Schedule 1 [10] provides for the recovery from employers who fail to obtain workers compensation insurance of compliance inspection costs incurred by an insurer or WorkCover.

Security for self-insurer obligations

The 1987 Act provides for self-insurers to be required to place money on deposit with

WorkCover to ensure that their ongoing workers compensation liabilities are provided for. Self-insurers can also be required to deposit additional funds from time to time.

Schedule 1 [12] extends the existing arrangements so that WorkCover will be able to require former self-insurers to place money or additional money on deposit. The amendment also makes it clear that the amount that a self-insurer or former self-insurer can be required to have on deposit is the amount required to adequately provide for all accrued, continuing, future and contingent self-insurer liabilities. The existing arrangements are also extended to cover self-insurer liabilities arising from dust diseases.

Schedule 1 [13] and [15]–[22] make consequential amendments.

Schedule 1 [14] makes it clear that interest earned on deposited money (which would otherwise be required to be paid to the self-insurer or former self-insurer concerned) can instead be applied by WorkCover in payment of extra deposits required to be made that have not been made.

Miscellaneous amendments

Schedule 1 [11] provides that a licence may be granted under Division 3 of Part 7 of the 1987 Act only if the licence is endorsed with a specialised insurer endorsement and granted to an existing licence holder on the expiry of a licence granted to the existing licence holder under that Division. This proposed restriction extends to an application for a licence that was made, but not determined, before the commencement of the proposed section. Any licence granted after the date that the Bill for the proposed Act was introduced into the Legislative Assembly that could not have been granted had the proposed section been in force has no effect.

Schedule 1 [23]–[25] enact consequential savings and transitional arrangements.

Schedule 1 [26] provides a savings and transitional regulation-making power.