c2021-100A
GRNS--The Greens

LEGISLATIVE COUNCIL

Motor Accidents and Workers Compensation Legislation Amendment Bill 2021

Second print

Proposed amendments

No. 1 **Presumptions relating to vaccinations for COVID-19 required for employment**

Page 10, Schedule 2.1. Insert after line 3—

[1A] **Section 3 Definitions**

Insert in alphabetical order in section 3(1)—

> *contracted*, for a COVID-19 vaccination disease, includes acquired or developed.
>
> *COVID-19 vaccination disease* has the same meaning as in section 19C.
>
> *disease* includes a COVID-19 vaccination disease.

[1B] **Section 19C**

Insert after section 19B—

19C **Presumptions relating to vaccinations for COVID-19 required for employment**

(1) If a worker, who is engaged in employment, contracts a COVID-19 vaccination disease, and the worker was required to have a COVID-19 vaccination for the worker's employment, then for the purposes of this Act, it is presumed, unless the contrary is established—

   (a) the COVID-19 vaccination disease was contracted by the worker in the course of the employment, and

   (b) the employment—

      (i) for a person to whom Schedule 6, Part 19H, clause 25 applies—was a substantial contributing factor to contracting the disease, or

      (ii) otherwise—was the main contributing factor to contracting the disease.

(2) For the purposes of this section, a person has contracted a COVID-19 vaccination disease if the person is diagnosed by a medical practitioner, in the way specified in the regulations, as having the disease.

(3) For the purposes of this Act, the date of the injury is the date of whichever of the following occurs first—

       (a)   the worker is diagnosed by a medical practitioner as having a COVID-19 vaccination disease,

       (b)   the worker dies as a result of a COVID-19 vaccination disease.

(4)   This section applies to a casual worker if the worker—

       (a)   has performed casual work in the employment on 1 or more of the 21 days preceding the date of the injury, or

       (b)   is required to have a vaccination to return to the employment.

(5)   The regulations may make provision about a matter relating to the application of this Act to or for workers who have a COVID-19 vaccination disease.

(6)   Without limiting subsection (5), the regulations may make provisions about the following—

       (a)   the modification of the provisions of this Act in their application to or in respect of workers who have a COVID-19 vaccination disease,

       (b)   the application of this Act to workers who suffer permanent impairment as a result of a COVID-19 vaccination disease,

       (c)   the use of employers' claims histories relating to COVID-19 vaccination disease-related claims in calculating premiums payable under this Act,

       (d)   the sharing of financial risk arising out of COVID-19 vaccination diseases between all insurers under this Act, including through the imposition and enforcement of risk equalisation arrangements for that purpose,

       (e)   transitional provisions for or about claims relating to confirmed COVID-19 vaccination diseases that occurred before the commencement of this section.

(7)   Section 9B does not apply in respect of an injury that is a COVID-19 vaccination disease.

(8)   In this section—

       COVID-19 vaccination disease means a disease or illness—

       (a)   associated with a vaccination for COVID-19, also known as severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), and

       (b)   that affects the person at any time from 24 hours after the administration of a COVID-19 vaccine.

No. 2   **Presumptions relating to vaccinations for COVID-19 required for employment**

Page 11, Schedule 2.1. Insert after line 14—

(1)   The following provisions, as inserted by the amending Act, extend to a worker required to have a COVID-19 vaccination for the worker's employment who contracted a COVID-19 vaccination disease before the commencement of the provisions—

       (a)   section 19C,

       (a)   section 4(1), the definitions of ***contracted***, for a COVID-19 vaccination disease, ***COVID-19 vaccination disease*** and ***disease***.