

CLAUSE NOTES

Asbestos-Related Diseases (Occupational Exposure) Compensation (Consequential Amendments) Bill 2011

- Part 1** **Preliminary**
- Clause 1 A formal provision specifying the title of the proposed Act. The Act amends certain legislation to ensure the *Asbestos Related Diseases (Occupational Exposure) Act 2011* works effectively.
- Clause 2 A formal provision specifying the commencement date of the Act. The Act will commence on the day persons are entitled to compensation under the *Asbestos Related Diseases (Occupational Exposure) Act 2011*.
- Part 2** **Ambulance Service Act 1982 Amended**
- Clause 4 Provides that where services are provided, a fee determined in accordance with the scale of fees provided in the associated regulations, is payable if the person is entitled to recover from the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.
- Part 3** **Appeal Costs Fund Act 1968 Amended**
- Clause 6 Provides that the Registrar of the Asbestos Compensation Tribunal must, not later than 31 July in each year, give to the Asbestos Compensation Commissioner a statement specifying the number of applications for referral made under the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011* to the Tribunal during the previous financial year. The Asbestos Compensation Commissioner must, not later than 31 August in each year give to the Registrar a copy of the

statement received by it and pay to the Registrar the prescribed amount.

Part 4 Civil Liability Act 2002 Amended

Clause 8 Ensures that Act does not apply to liability for compensation under the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Clause 10 A volunteer does not include a person who is taken to be a worker for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 5 Civil Process Act 1985 Amended

Clause 12 Provides that nothing in that Act applies to procedure or practices in the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 6 Director of Public Prosecutions Act 1973 Amended

Clause 14 The Director is deemed to be a worker for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 7 Evidence (Audio and Audio Visual Links) Regulations 2008 Amended

Clause 16 Includes the Asbestos Compensation Tribunal as a Tasmanian Court. This will allow it to take evidence and submissions by way of audio link and audio visual links.

Part 8 Fire Service Act 1979 Amended

Clause 18 Where a Brigade Chief causes their brigade to provide assistance in respect of a civil emergency, any member of that brigade is taken to be engaged in fire-fighting operations for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Clause 19 Where the brigade is engaged in the performance of services, a member who helps render the services is taken to be engaged in fire-fighting operations for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Clause 20 The State Fire Commission is deemed to be the employer of all persons appointed or employed under the Fire Service Act.

Part 9 Health (Fees) Regulations 2007 Amended

Clause 22 Provides that the definition of “compensable patient” includes a person that has received, or established a right to receive, payment for care and treatment by way of compensation claim under the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 10 Health Act 1997 Amended

Clause 24 Provides that the fee payable for hospital services, provided to a person whose fees and charges are being funded by the Asbestos Compensation Commissioner, is the amount agreed from time to time by the Minister for Health and the Asbestos Compensation Commissioner.

Part 11 Health Complaints Act 1995 Amended

Clause 29 Services are not deemed to be health services if they relate to an application made to the Asbestos Compensation Commissioner or the Asbestos Compensation Tribunal.

Part 12 Industrial Relations Act 1984 Amended

Clause 31 The Commissioner is deemed to be a worker for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 13	Local Government Act 1993 Amended
Clause 33	Electoral Officers are deemed to be workers within the meaning of the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> .
Part 14	Long Service Leave (Casual Wharf Employees) Act 1982 Amended
Clause 35	The definition of “workers compensation” is amended to include compensation payable under the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> .
Part 15	Long Service Leave Act 1976 Amended
Clause 37	The definition of “workers compensation” is amended to include compensation payable under the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> .
Part 16	Magistrates Court Act 1987 Amended
Clause 39	Magistrates are deemed to be a worker for the purposes of the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> .
Part 17	Motor Accidents (Liabilities and Compensation) Act 1973 Amended
Clause 41	Excludes the Motor Accidents Insurance Board from liability for an asbestos-related disease which is compensable under the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> , at Common Law.
Clause 42	Excludes the Motor Accidents Insurance Board from liability for an asbestos-related disease which is compensable under the <i>Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011</i> , under scheduled benefits.
Part 18	Retirement Benefits Regulations 2005 Amended

Clause 44 Provides that if an invalidity pensioner is in receipt of regular weekly payments under the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*, and the combined payments of the invalidity pension and weekly payments exceed the salary received, or taken by the Board to have been received, in the previous 12 months, the Board may suspend the pension payable or reduce the amount of that pension.

Part 19 Sentencing Act 1997 Amended

Clause 46 Provides that an offender discharging a community service order is taken to be a worker for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*. However, they are not taken to be a worker in relation to weekly payments, if they only have an entitlement to weekly payments due to 36A(1) of the Sentencing Act.

Part 20 Solicitor-General Act 1983 Amended

Clause 48 The Solicitor-General is deemed to be a worker for the purposes of the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*.

Part 21 Workers Rehabilitation and Compensation Act 1988 Amended

Clause 50 Asbestos Related Diseases are removed from the definition of “injury” under that Act. However, an employer’s workers’ compensation insurance will still cover them in the event of action being taken against them at common law for an asbestos claim.

Clause 51 The WorkCover Tasmania Board has the power to revoke or suspend the accreditation of a medical practitioner, if that person has failed to comply with the provisions of this Act or the *Asbestos Related Diseases (Occupational Exposure) Compensation Act 2011*, or any

regulations, guidelines, rules of practice, or procedures made under both Acts. They can also suspend a person if they have been convicted of an offence against either Act.

Clause 52

A person who is currently receiving compensation under the Workers Rehabilitation and Compensation Act for an asbestos related disease will continue to do so.

Clause 53

Asbestosis and Mesothelioma are removed from Schedule 4 (Diseases in Respect Which There is Presumption of Cause).