

CLAUSE NOTES

Asbestos-Related Diseases (Occupational Exposure) Compensation Amendment Bill 2023

- Clause 1** **Short title**
The Bill will be cited as the *Asbestos-Related Diseases (Occupational Exposure) Compensation Amendment Act 2023*.
- Clause 2** **Commencement**
The Act commences on the day it receives the Royal Assent.
- Clause 3** **Principal Act**
This clause provides that the Principal Act that is being amended is the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*.
- Clause 4** **Section 61 amended (Determinations by medical panel if matter referred to accredited impairment assessors)**
Clause 4 implements Recommendation 4 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 First Five Yearly Review* by amending section 61(1) of the Principal Act so that a determination of an Impairment Assessor is no longer taken to be a determination of the Medical Panel.
- Clause 5** **Section 116 amended (Interpretation of Part 11)**
Clause 5 implements Recommendation 1 of the 2022 Review by amending section 116 with the effect that the costs of support services, for both claimants and relevant family members, will now be met by the scheme. For relevant family members, these costs will be met for up to 3 years after the death of the compensable person (see Clause 7).
The new definition 'relevant family member' enables members of the family who have attained the age of 22 years to claim for the costs of support services.
- Clause 6** **Sections 118 and 119 substituted**
118. Medical, &c., expenses payable for imminently fatal disease
119. Medical, &c., expenses payable if non-imminently fatal disease
Clause 6 implements recommendation 1 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 Second Five Yearly Review* by amending sections 118 and 119 with the effect that medical costs incurred prior to making a claim that are directly related to a successful claim will now be able to be reimbursed. This will be in the form of a one-off payment equivalent to 15 expenses units.

- Clause 7** **Section 121 amended (How claim for payment of expenses may be made)**
Clause 7 provides relevant family members with the ability to claim for support services, including up to 3 years after the death of the compensable person.
- Clause 8** **Section 123 amended (Persons to whom expenses under this Part are to be paid)**
Clause 8 enables members of the family who have attained the age of 22 years to be paid for the costs of compensable services (support services).
- Clause 9** **Section 126 amended (Questions as to whether Commissioner required to pay expenses may be referred to Tribunal)**
Clause 9 broadens the operation of section 126 so that members of the family who have attained the age of 22 years may also be able to refer to the Tribunal questions as to whether the Commissioner is required to pay expenses.
- Clause 10** **Section 127A inserted**
127A. Tribunal may determine compensation amounts in certain circumstances
Clause 10 implements Recommendation 9 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 First Five Yearly Review*, by amending the Principal Act to ensure that if a member of a family of a person who has a compensable disease is aggrieved by the distribution of compensation under the default position as provided by Schedule 1, the member of the family may then refer the matter to the Tribunal to determine how the compensation should be apportioned among family members.
- Clause 11** **Part 12, Division 2: Heading amended**
Clause 11 removes the old reference to the Asbestos Compensation Tribunal and replaces it with the term 'Tribunal', which is defined in the Principal Act as the 'Tasmanian Civil and Administrative Tribunal'.
- Clause 12** **Section 146 amended (Costs)**
Clause 12 implements recommendation 3 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 Second Five Yearly Review* by amending the Principal Act such that the Asbestos Compensation Commissioner is now required to meet the review costs of a successful claimant where an error of law has been made by the Medical Panel.
- Clause 13** **Section 162 amended (Asbestos Compensation Fund)**
Clause 13 implements Recommendation 4 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 Second Five Yearly Review* by amending section 162 of the Principal Act to specifically facilitate expenditure from the Asbestos Compensation Fund for the provision of professional training and education; and public information and community education.

Clause 14 Section 173 amended (Commissioner may seek to recover certain amounts from culpable manufacturers and suppliers)

Clause 14 implements Recommendation 7 of the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011 Second Five Yearly Review*, by amending section 173 of the Principal Act to provide that a claimant is not required to repay the Commissioner an amount of compensation which has been incorrectly calculated.

Clause 15 Repeal of Act

This automatically repeals the amending legislation 12 months after the Act is fully commenced. This is because the amendments are incorporated into the Principal Act, and will remain in force after the repeal of the Amending Act.