

South Australia

Workers Rehabilitation and Compensation (Third Party Liability) Amendment Bill 2004

A BILL FOR

An Act to amend the *Workers Rehabilitation and Compensation Act 1986*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Workers Rehabilitation and Compensation (Third Party Liability) Amendment Act 2004*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

4—Amendment of section 3—Interpretation

Section 3—after subsection (1) insert:

- 15 (2) If a sum of money fixed by this Act is followed by the word
"(indexed)", that signifies that the amount is to be adjusted as at 1
January in each year so that the adjusted sum (calculated to the
nearest multiple of \$100) bears to the sum fixed by Parliament the
same proportion as the Consumer Price Index for the September
20 quarter of the immediately preceding year bears to the Consumer
Price Index for the September quarter of the year in which the law
fixing the sum took effect.

5—Amendment of section 54—Limitation of employer's liability

(1) Section 54—after subsection (5) insert:

5 (5a) However, where the worker's disability is partially attributable to the
act or omission of a person protected from liability under this section
(ie the worker's employer or a co-worker) and partially attributable to
the act or omission of someone else (the third party), the third party's
liability to indemnify payments of compensation under subsection
10 (5) is limited to an amount that is fair and equitable having regard to
the extent of the third-party's responsibility for causing the trauma
out of which the worker's disability arose.

(2) Section 54(7)(c)—after "the amount of the compensation" insert:

or a proportion of that amount

(3) Section 54(7)(d)—after the amount of compensation paid or payable under this Act"
insert:

15 (or the relevant proportion of that amount)

(4) Section 54(8)—after the definition of *employer* insert the following definitions:

group training organisation means an organisation that arranges work
experience or on the job training for apprentices or trainees;

20 *labour hire agency* means a person that carries on the business of making
available the services of its workers to others;.

(5) Section 54—after section 54(8), insert:

(9) If a person (a *host employer*), in the course of carrying on a
business—

25 (a) provides work experience or on-the-job training for
apprentices or trainees under a contract or arrangement with
a group training organisation; or

(b) makes use of the services of the employees of a labour hire
agency under a contract or arrangement with the agency,

30 the host employer is taken, for the purposes of this section, to employ
them in the host employer's business.