

Western Australia

LEGISLATIVE ASSEMBLY

(Introduced by Mr Graham, MLA)

**Law Reform (Miscellaneous Provisions
(Asbestos Diseases)) Bill 2000**

A Bill for

**An Act to amend the Law Reform (Miscellaneous Provisions)
Act 1941 to provide for the survival of claims for damages in certain
causes of action in relation to asbestos-related conditions and for
other purposes.**

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Law Reform (Miscellaneous
Provisions (Asbestos Diseases)) Act 2000*.

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2. Purpose

The purpose of this Act is to amend the Law Reform
(Miscellaneous Provisions) Act 1941 to provide for the survival
of claims for damages in certain causes of action in relation to
dust-related conditions and to make other minor amendments to
that Act.

3. Commencement

This Act comes into operation on the day after the day on which
it receives the Royal Assent.

4. Survival of claims for damages in certain causes of action

(1) Subsection 4(2) of the *Law Reform (Miscellaneous Provisions)
Act 1941* is amended by —

- (a) inserting in paragraph (a) after “shall not” the
following —
“, except as provided in subsection (2A),”;
- (b) inserting in paragraph (d) after “shall not” the
following —
“, except as provided in subsection (2A),”.

(2) A new subsection (2A) is inserted after subsection 4(2) of the
Law Reform (Miscellaneous Provisions) Act 1941 —

- “(2A) Where —
- (a) a cause of action survives under subsection (1)
for the benefit of the estate of a deceased
person; and
 - (b) the death of that person is from a latent injury
that is attributable to the inhalation of asbestos
which has been caused by the act or omission
which gives rise to the cause of action; and

- (c) proceedings in respect of that cause of action were commenced by that person before his or her death and were pending at his or her death;

the damages recoverable for the benefit of the estate of that person shall include damages for all or any of the following —

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- (d) that person's pain or suffering;
- (e) any bodily or mental harm suffered by that person;

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- (f) the curtailment of that person's expectation of life;
- (g) exemplary damages.

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