



Workers Compensation Legislation Amendment Bill.

Second Reading

Mr GAUDRY (Newcastle—Parliamentary Secretary), on behalf of Ms Meagher [10.40 p.m.]: I move:

That this bill be now read a second time.

The second reading speech is substantially the same as that of the Minister who introduced the bill into the Legislative Council. I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

The Bill before the House introduces a number of further reforms to the Workers Compensation legislation. The *Workers Compensation Legislation Amendment Bill 2003* can be summarised as follows:

? Schedule 1 and 2 of the bill gives effect to miscellaneous amendments to the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*, including encourage employers to notify injuries on time by providing financial incentives through the claims excess, to make miscellaneous amendments to the structure and procedure of the Workers Compensation Commission to improve the administration of the Commission and other minor amendments.

? Schedule 3 of the bill makes various minor amendments to the *Occupational Health and Safety Act 2000* to provide consistency within the legislative scheme.

? Schedule 4 amends the *Workers Compensation (Dust Diseases) Act 1942* to ensure that the current ability of the Dust Diseases Board to recover money from negligent third parties to reimburse the Dust Diseases Board is effective.

I will now outline the more significant amendments in more detail.

Schedule 1 of the bill includes various miscellaneous amendments to the *Workers Compensation Act 1987*, including an amendment to the time limit to initiate court proceedings.

It is proposed that the this Act be amended to ensure that the limitation period for the commencement of court proceedings for work injury damages does not run when an applicant is unable to serve a pre-filing statement because of the procedural requirements contained in the *Workplace Injury Management and Workers Compensation Act 1998*.

This amendment will benefit workers by ensuring they are not disadvantaged by procedural delays beyond their control.

The bill includes an amendment proposed by the Greens in the other place. The Greens amendment simply ensures that the bill covers the whole array of procedural requirements.

The bill introduced by the Government in the other place covers the 2-month period that an insurer has to determine a claim by accepting or disputing liability.

The Greens amendments go further to cover the 1-month period in which the worker can take no action while they decide how to proceed, and to ensure that all the procedural requirements regarding administrative processes in the Workers Compensation Commission to progress appeals against medical assessments are covered.

The Government accepted this amendment and it has been incorporated in the bill before the House.

The bill also amends the provisions allowing companies who become self insurers to purchase their tail liabilities. The amendment will simply clarify the power of the WorkCover Authority to determine the amount of the payment as a fair and reasonable amount.

Schedule 2 of the bill has various amendments to the *Workplace Injury Management and Workers Compensation Act 1998*.

The Government recognises that sometimes a financial incentive is needed to encourage businesses to adopt improved practices.

As part of the Single Notification Scheme the Government is providing financial incentives to employers who notify injuries early. Employers who notify within the specified timeframes may pay a lower or no excess for that claim. Conversely, employers who do not notify within the specified timeframe may be required to pay a higher excess for that claim.

This new system of notification will help speed up injury treatment and management for an injured worker. Making sure treatment and support are available for an injured worker as soon as possible after an injury is key in achieving a good return to health and work.

This change means less red tape for employers. Instead of having to make two notifications for many injuries or incidents they will now only need to make one notification – either to WorkCover or their insurer.

Having less red tape for employers and allowing them to concentrate on growing their businesses instead of having to do duplicate paper work is in line with this Government's policy. Simplification of the notification process will promote higher compliance and more reliable, accurate and timely information on injuries, illnesses and incidents.

WorkCover authorised officers have various powers under this Act, including entry and inspection powers, power to apply for search warrants and to obtain information, documents and evidence.

Provisions that confer powers on authorised officers to enter and inspect premises and to obtain information, documents and evidence will be rationalised for consistency.

The self incrimination provisions will also be modified to provide guidance on the appropriate time for officers to give a self-incrimination warning. This modification is also made to parallel self-incrimination provisions in the *Occupational Health and Safety Act 2000*.

This proposal will assist the inspectorate in enforcing workers compensation and occupational health and safety and this will benefit the whole community.

Several minor amendments to the administration and operation of the Workers Compensation Commission are also proposed.

For example, authorising the President of the Commission to delegate their functions to a Deputy President in cases of conflict of interest or apprehended bias, and clarifying the position of the Registrar.

Schedule 3 includes amendments to the *Occupational Health and Safety Act 2000*.

The Act will be amended to clarify that a breach of the duties under the *Occupational Health and Safety Regulation 2001* do not confer a civil right of action upon employees. This is already the case for duties under the *Occupational Health and Safety Act* itself.

Enforcement of the Act and Regulation is by prosecution by WorkCover, and the Act provides that an employer cannot be sued for damages for breaching this statutory duty. This proposal simply extends the protection to duties arising out of the Regulation.

The amendment does not affect the ability of employees to sue for damages at common law.

Minor amendments will also be made to the terminology in the Act relating to the notification of accidents as part of the Single Notification Scheme. These amendments will provide the legislative framework to enable the Scheme to commence on 1 September this year.

The amendments also provide for consistency within the Act and make the provisions easier to understand.

Schedule 4 provides for amendments to the *Workers Compensation (Dust Diseases) Act 1942*.

In 1998 this Act was amended to include provisions to allow the Dust Diseases Board to recover damages paid to workers where a negligent third party (such as an asbestos manufacturer) is liable. The bill contains proposals to strengthen these provisions to ensure that these provisions are operational.

Finally, Schedule 5 makes a consequential amendment to the *Workers Compensation (Bush Fire, Emergency and Rescue Workers) Act 1987*. The bill ensures that bush fire and emergency service volunteers continue to be covered by the same commutation provisions as workers in the *Workers Compensation Act 1987*.

To conclude, the amendments contained in the bill:

- ? improve the operation of the Workers Compensation Commission,
- ? provide employers with financial incentives to notify insurers early of an injury,
- ? strengthen the Dust Diseases legislation and
- ? improve the operation and viability of the WorkCover Scheme.

This will benefit NSW workers, employers and the whole community.

The proposals merit the support of Honourable Members, and I commend the bill to the House.

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