NSW Legislative Council Hansard (Proof)

Dust Diseases Tribunal Amendment (Claims Resolution) Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 25 May 2005 (Proof).

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, Minister for Fair Trading, Minister Assisting the Minister for Commerce, and Minister Assisting the Premier on Citizenship) [2.31 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

The Dust Diseases Tribunal Amendment (Claims Resolution) Bill 2005 aims to significantly reduce legal and administrative costs associated with resolving dust diseases compensation claims.

The Bill amends the Dust Diseases Tribunal Act 1989 to support the making of regulations to establish a new claims resolution process for asbestos related compensation claims. The Bill also amends the Dust Diseases Tribunal Regulation to establish the new claims resolution process.

The new claims resolution process was described in detail in the report of the Review of Legal and Administrative Costs in Dust Diseases Compensation Claims.

The intent behind the new claims resolution process is to reduce the time that claims will take to settle, which will in turn reduce the costs incurred. The new process focuses on the early exchange of information and the compulsory mediation of claims.

The new claims resolution process will apply to asbestos related claims only. The Bill and Regulation will also make amendments relating to subpoena, offers of compromise and costs assessment and these amendments will apply to all matters in the Dust Diseases Tribunal.

Claims that proceed through the new process should be resolved more quickly and efficiently, which means that asbestos victims will receive their compensation faster.

The Bill and Regulation will not affect the right of claimants to commence proceedings in the Dust Diseases Tribunal. They will, however, provide parties with a framework in which information can be exchanged and settlement discussions can be pursued.

This Bill is the result of much consideration and consultation.

It implements the recommendations of the Review of Legal and Administrative Costs, conducted by Mr Laurie Glanfield AM, Director-General of the Attorney General's Department, and Ms Leigh Sanderson, Deputy Director-General of The Cabinet Office.

The Review was established by the NSW Government after the issue of improving the efficiency with which dust diseases compensation claims are resolved was canvassed in negotiations with James Hardie Industries to secure funding to compensate the victims of its asbestos products.

Mr Greg Combet of the ACTU, Mr John Robertson of the NSW Labor Council and Mr Bernie Banton, representing asbestos victims, identified that any changes to the existing system would affect all claimants and defendants. Accordingly they recommended that the NSW Government initiate a review to identify cost-savings within the existing common law system without impacting adversely on claimants' compensation rights.

The NSW Government agreed to establish this review.

As the Government announced last December, implementation of the Review—through the passage of this Bill—is a condition precedent to James Hardie Industries providing funding for asbestos compensation.

Stakeholders have been extensively consulted throughout the Review process including during the development of the amendments to the Regulation.

The Review released an Issues Paper late last year and received 31 submissions from stakeholders to assist with the preparation of its report.

The report of the Review was released on 8 March 2005 and the Government adopted the recommendations of the report on the same day.

Following the release of the Review's report a draft Regulation to establish the new claims process was released for public consultation. Targeted consultation also occurred with defendants on a number of specific issues relevant to multiple defendant claims.

Numerous meetings were also held with key stakeholders in the preparation of the Review's report and the development of the Regulation.

I would like to acknowledge the assistance and advice the Review has received from the Dust Diseases Tribunal during the development of these reforms. The Dust Diseases Tribunal has been consulted over the course of the Review and I welcome the President of the Tribunal, Judge John O'Meally's commitment to making this new process work. I look to the Dust Diseases Tribunal to continue their commitment and support, to ensure that the changes introduced by this Bill and Regulation are effectively implemented, both administratively and judicially, in the Tribunal.

The changes implemented by this legislation are significant, and the new claims resolution process has a number of unique and innovative features. The Review recommended that a further Review of the reforms and the dust diseases compensation system more generally be conducted after data in relation to the reforms' first 12 months of operation are available.

This will provide an opportunity for further consultation to ensure that the new system is working as intended, and to fine tune the system as required.

Madam President, in introducing this Bill, I would like to acknowledge the goodwill that stakeholders have overwhelmingly displayed during the Review process.

The Government has found that there has been a real willingness from all parties to target areas where costs savings could be made.

The goodwill of stakeholders is important, because the success of the reforms contained in this Bill and Regulation does depend, to a large degree, on the parties approaching the claims resolution process in good faith.

One of the key findings of the review was that a reduction in legal, administrative and other costs will only be realised fully if the parties ensure that they and their lawyers approach disputes with the intention of resolving those disputes fairly, efficiently and—in the case of defendants–commercially.

For the benefits of these reforms to be fully realised, the goodwill shown by stakeholders during the Review will need to continue.

I turn now to the Bill itself.

Schedule 1 of the Bill amends the Dust Diseases Tribunal Act 1989 to accommodate the new claims resolution process, which is set out in detail in the amendment to the Dust Diseases Tribunal Regulation 2001. The Bill includes a new regulation making power that authorises the making of the regulatory amendments.

The amendments to establish the new claims resolution process are set out in Schedule 2 of the Bill.

The proposed new claims resolution process addresses one of the key findings of the review – that is, that reforms to the existing common law system of determining dust diseases compensation will need to encourage early settlement.

The early exchange of information between the parties is the key to encouraging early settlement; and defendants need to be encouraged to resolve disputes as to contribution between defendants quickly and commercially and without delaying resolution of the claimant's claim.

Division 2 of Part 4 of the Regulation describes the claims that will come under the new claims resolution process.

The new process will apply to asbestos related claims where the Statement of Claim is filed after 1 July 2005. It will also apply to other asbestos related claims where a hearing date has not been set before 1 July 2005, unless the parties agree that it should not apply.

Some concerns were raised in consultation on the draft Regulation in relation to the proposal to apply the new claims resolution process to claims already lodged with the Tribunal. Those concerns highlighted that there was

a risk that work might be duplicated if all of the steps of the new claims resolution are required to be completed.

The Government is confident that this need not be the case and that significant benefits could be realised from bringing such claims into the new process in an efficient manner. The transitional arrangements provide for the parties, on the initiative of the claimant, to negotiate on modifying the steps of the new claims resolution process to ensure that work which has already been completed is not duplicated.

If the parties cannot agree the Registrar will be able to make a decision on this matter.

One of the key findings of the Review was that maintaining access to the Tribunal will ensure that the reforms do not adversely affect claimants' compensation rights. Such access is particularly important for cases that are or become urgent.

As such, claims will continue to be commenced by lodging a Statement of Claim with the Tribunal. This will preserve the rights which claimants currently have, and will ensure that they are able to access the Tribunal quickly if their condition deteriorates.

Urgent claims will not proceed through the new claims resolution process and will be dealt with using the existing Tribunal litigation process.

After serving the Statement of Claim, the Tribunal may, on application by the claimant and on the basis of medical evidence, determine that a case is an urgent case.

Similarly, if a claim is being dealt with under the new claims resolution process and becomes urgent because the claimant's condition deteriorates, the claimant will be able to apply to the Tribunal to have the claim removed from the claims resolution process and dealt with by the Tribunal. To address concerns raised by some stakeholders during the consultation process, the provisions of the Regulation have been clarified to make it clear that an application for urgency can be made, even though the Statement of Particulars required to be prepared by the claimant has not been completed and served.

It should be emphasised that the new claims resolution process will provide a quick and streamlined process for resolving claims. The Tribunal's powers in this area should only be exercised where it can clearly be established on the basis of medical evidence that the claimant's condition is so serious that the new process cannot be completed within such a timeframe as to enable the claimant's claim to be resolved while they are alive.

One of the key concerns of defendants has been that the filing of the Statement of Claim will be delayed by claimants' lawyers to such an extent that the Tribunal will have no option but to declare that all claims are urgent. The Government has to date rejected calls for a limitation period to be introduced which would require claims to be filed within a certain period of time from diagnosis or consultation with a lawyer.

Delays in filing claims would not appear to be in the interests of claimants, or defendants. Claimants should be afforded the advantages of the new claims resolution process so that they can receive their compensation while they are alive. This is, however, an issue that can be reconsidered if the information provided to the further review suggests that there is a problem.

Other claims will not proceed through the new claims resolution process if there is no real prospect of the claim being resolved through that process. This is most likely to occur in relation to test cases where novel issues are involved, for example, where a category of defendant may not previously have been found to be liable for a dust disease. In such cases, the cases can only be resolved by way of a determination by the Tribunal.

The parties will be required to engage in the information exchange process to ensure that the matter is genuinely a case which cannot be resolved through the new claims resolution process. This will also have the advantage of allowing the parties to narrow the issues in dispute and minimise the need for many of the Tribunal's procedural steps to be undertaken when the matter transfers back to the Tribunal for determination.

Parties are also able to apply to the Tribunal to have the claim removed from the new claims resolution process if another party has failed to comply with the new process.

While a claim is subject to the new claims resolution process it will not be subject to case management by the Tribunal. The power of the Tribunal to make certain orders has been preserved in a number of specific areas primarily to protect the interests of plaintiffs. For example, the plaintiff will be able to seek the Tribunal's assistance to amend his or her Statement of Claim to join a new defendant if the Tribunal is satisfied that it is necessary to do so to preserve the plaintiff's cause of action.

This power should only be used where it becomes clear that the wrong defendant has been sued, and unless the correct defendant is substituted, the plaintiff will be left with no action. The Tribunal's powers in other limited

areas will also be preserved.

Division 3 of Part 4 of the Regulation provides for the exchange of information.

The Review of Legal and Administrative Costs identified that the early exchange of information is the key to promoting early settlement and reducing legal, administrative and other costs. The new claims resolution process focuses on ensuring that information is exchanged in a timely manner.

The claimant is required to serve a Statement of Particulars when he or she serves the Statement of Claim on the defendants. The Statement of Claim will not be properly served until the claimant serves the Statement of Particulars.

The Statement of Particulars will contain the basic factual information required by defendants to evaluate the claim, presented in a standard format and verified by statutory declaration.

Importantly, it will not be necessary to—and the parties should not—obtain expensive, detailed expert reports, such as medical reports or reports of occupational hygienists or therapists, until it is clear that this material is actually needed.

Defendants will be required to join or cross-claim against any additional defendants within a fixed timeframe. The Review found that there are likely to be substantial benefits in having as many defendants as possible 'at the table' during the claims resolution process so that issues of contribution and apportionment can be sorted out quickly. For the claims resolution process to be effective, defendants need to be joined as early in the process as possible. Once the time limit has expired, however, if defendants want to pursue contribution against a party who has not been joined they will need to commence separate contribution proceedings after the claim is resolved.

The Bill also amends the Act to clarify the extent of the jurisdiction of the Dust Diseases Tribunal by providing that the Tribunal's jurisdiction to determine claims extends to claims for contribution between liable tort-feasors which are brought separately from the claimant's claim.

In response to concerns raised during consultation that the time for lodging cross claims is too short, the Regulation now provides for the period within which cross claims can be lodged to be extended by agreement of the claimant and the original defendants on whom the claim was served. The claimant must consent to such a request unless they can demonstrate that this would result in substantial prejudice.

Each defendant is required to provide a "Reply" to the claimant's claim, presented in a standard format. This is set out in Schedule 2 of the Regulation. If a defendant does not admit a matter, it must explain why and set out the reasons why it does not admit that matter, and in some cases provide any evidence to support its position. A defendant must indicate if it requires further information or an opportunity to inspect premises.

The intention of this process is for defendants to take a realistic approach to resolving claims. They should not unreasonably leave issues in dispute, for example, they should not be disputing that their products caused an asbestos related disease when this has been clearly established time and time again.

The parties should focus on those issues which are genuinely in dispute, and should only obtain additional reports and evidence where this is clearly necessary.

The obligation on parties to provide information is ongoing. Parties must provide information on the claim as and when it becomes available and should update their answers, and continue to narrow the issues which are in dispute.

While the parties should provide as much factual information as possible when they prepare their Statement of Particulars and Reply, they are only required to provide all information which is reasonably available to them.

The Review has concluded that there is significant capacity to use more widely processes outside of the formal litigation process, including alternative dispute resolution, for resolution of both the claimant's claim and contribution disputes.

Division 4 of Part 4 provides for compulsory mediation of the plaintiff's claim.

If the claim has not already been settled by informal means then the parties will be required to participate in mediation. The mediation will be conducted by a mediator agreed by the parties or selected by the Registrar of the Tribunal, from a list of mediators. The mediators on the list will be formally approved by the President of the Tribunal, after they have been jointly nominated by the Law Society of NSW and the NSW Bar Association.

Mediators will take an active role in seeking to resolve claims. They will assess the parties' positions and make

recommendations to the parties on the settlement of claims.

Each party is required to be represented at the mediation by a representative who has authority to settle the matter. It is expected that those defendants who have raised concerns about costs in this area will assist in minimising costs associated with the mediation by ensuring that a person with authority to make decisions attends the mediation so that decisions can be made quickly and claims can be settled.

Importantly, if the mediator is unhappy with the conduct of a defendant's representative, they can order that the claims manager for the defendant attend the mediation to ensure that the defendant is taking a realistic approach to the mediation.

The claimant is also required to attend the mediation (either in person or by video-conferencing), unless he or she is too ill to attend.

If the mediation is unsuccessful, the mediator will require the parties to agree to a list of issues genuinely in dispute and a list of agreed facts relevant to those issues. It is only these issues that will proceed to be determined by litigation in the Tribunal.

If the parties are unable to agree to a list of issues and a list of agreed facts, each party will be required to lodge its own list of issues in dispute and facts relevant to those issues. Cost penalties will apply if parties unreasonably leave issues in dispute.

The mediation in the claims resolution process is not intended to be a formal legal proceeding and it is intended that the costs associated with the process will be minimised by the parties. In the interests of minimising unnecessary legal costs mediators may, under clause 30 of the Regulation, control who attends the mediation and may limit the number of representatives that a party has at a mediation session. This may be exercised by the mediator limiting representation by a barrister if they do not consider that representation by a barrister is warranted in the circumstances.

A key issue raised by plaintiff interests was the need to ensure that parties set out to resolve a claim through mediation in good faith. The draft regulation released for consultation has been varied to confer on the mediator the power to issue a certificate stating that in his or her opinion a party did not negotiate in good faith. The Tribunal then has the power to take this into account in awarding costs.

Madam President, the Review found that reforms to the existing common law system of determining dust diseases compensation will be most effective in reducing legal, administrative and other costs if they encourage defendants to resolve disputes as to contribution between defendants quickly and commercially and without delaying resolution of the claimant's claim.

Division 5 of the Regulation relates to apportionment of liability between defendants and is intended to encourage defendants to take a realistic approach to apportionment matters and seek to settle disputes about contribution quickly.

Under the Division, if defendants fail to agree on apportionment within the specified time the Registrar will refer the matter to a Contributions Assessor for determination. Contributions Assessors will then determine the contribution each defendant is liable to make to the plaintiff's damages.

This assessment will be binding for the purpose of resolving the claimant's claim, but can be challenged in subsequent proceedings before the Tribunal.

Contributions Assessors make their determination on the basis of the information provided by the parties during the early exchange of information stage and "standard presumptions" as to apportionment, which will be contained in an Order.

The Government adopted the Review's recommendation that the Attorney General's Department and The Cabinet Office convene a meeting of defendants and insurers to discuss contribution between defendants and the use of a single claims manager by all defendants to a particular claim. The defendants' meeting was held on 21 March 2005. The development of standard presumptions was discussed at this meeting.

Defendants were unable to agree on the standard presumptions which should be used to apportion liability among themselves. In the absence of agreement the Government has developed standard presumptions.

The standard presumptions were set out in the draft *Dust Diseases Tribunal (Standard Presumptions – Apportionment) Order* 2005, which was released for public consultation on 12 April 2005 with the draft Regulation. The Order is currently being finalised and should be available in the immediate future.

It is not intended that parties will need to prepare lengthy submissions on apportionment. The Contributions

Assessor will apply the standard presumptions contained in the Order quickly, on the basis of the information available to them after the early information exchange.

The standard presumptions are flexible and the Contributions Assessor will be able to take into account new factual circumstances which arise and future decisions of the Tribunal.

The introduction of standard presumptions will reduce costs and result in faster settlements so that claimants get their compensation sooner. While the early exchange of information should put defendants in the position to assess the claims made against them, the prospect that a "standard presumption" will be used to apportion liability among defendants should also focus defendants on resolving apportionment issues in a commercial manner.

The decision of the Contributions Assessor cannot be challenged by the defendants until after the plaintiff's claim has been settled or determined. Defendants will be able to challenge the determination after the claimant's claim has been settled or determined, but the challenging defendant will be liable for indemnity costs for other parties if the challenging defendant does not materially improve its position. A defendant will only materially improve their position if they achieve a ten percent or $20 000 reduction in their apportioned share of liability, whichever is the greater.

A defendant that wishes to challenge a decision of the Contributions Assessor can, if the mediation is successful, require that the claimant give sworn evidence at the end of the mediation in respect of matters relevant to contribution.

The Government expects that Counsel may be required for the taking of the claimant's evidence after a successful mediation. The Government does not, however, expect that it will be necessary for Counsel to attend the mediation. Therefore mediators will make arrangements that will enable Counsel to be able to attend the taking of the claimant's evidence without needing to attend the mediation, again reducing costs.

At the meeting of defendants organised by the Attorney General's Department and The Cabinet Office, defendants and insurers were asked to consider the merits of using a single claims manager to manage claims on behalf of all defendants.

After considering those discussions, the Government considers that a sufficient case has been made to implement arrangements for the use of a single claims manager by legislation.

Accordingly, Division 6 of the Regulation requires single claims managers to be used in all multiple defendant claims, unless defendants agree not to use one.

I note that defendants have expressed differing views on the merits of a single claims manager. Insurers have in particular highlighted the success of these arrangements in other areas as a means of reducing unnecessary cost.

Madam President,

The Government considers that many of the concerns expressed about the potential for the single claims manager to result in conflicts of interest are overstated. This is because, as detailed in clause 47 of the Regulation, the single claims manager will have no role or function in the determination of apportionment between defendants. Also, apportionment issues between defendants will have already been resolved by the time the single claims manager is appointed.

Clause 45 of the Regulation outlines the process to be undertaken to select the single claims manager.

The single claims manager will manage, negotiate and seek to resolve the plaintiff's claim on behalf of all defendants. Single claims managers will be taken to have authority to settle the matter with the claimant. Defendants are able to impose a monetary limit on the authority of the single claims manager to settle the claim, but they must act reasonably in imposing that limit. The role and functions of the single claims manager are set out in clause 46 of the Regulation.

Both defendant and plaintiff interests expressed concern that a defendant could frustrate the process by setting an unreasonably low settlement limit on a single claims manager. This has been addressed in the Regulation by providing for the mediator in any subsequent mediation to issue a certificate to the effect that the defendant has not acted in good faith.

The role of the single claims manager does not, in any way, limit or interfere with the ability of each defendant to prepare and serve the defendant's reply to the plaintiff's Statement of Particulars. The use of a single claims manager does not affect each defendant's right to attend and be represented at, the mediation of the claim with the claimant. Each defendant will also be able to question the claimant on issues relating to contribution if the

claimant gives evidence at the end of the mediation.

The costs of the single claims manager will be shared among the defendants. Clause 48 outlines the model for distributing the costs of the single claims manager between defendants. Clause 48 also provides that a scale of costs for use in determining the operational costs of the single claims manager may be introduced by Order.

The Government considers that there are likely to be significant cost savings by introducing single claims managers in multiple defendant claims. This will provide defendants with an opportunity to significantly reduce their costs and will streamline the resolution of the plaintiff's claim.

The Bill also inserts new Parts 5 and 6, relating to subpoena and offers of compromise, into the Regulation. These Parts will apply to all Dust Diseases Tribunal claims, not just asbestos related claims.

Part 5 introduces procedures for managing subpoena which are based largely on the innovative procedures that have been adopted in the District Court and which have substantially reduced the number of appearances required by the parties.

Part 6 strengthens the provisions in relation to offers of compromise to make them more effective. Under Part 6 parties will be able to make offers of compromise both before, during and after mediation. The time for which an offer of compromise must remain open will be changed, according to the stage of the claims resolution process that the claim has reached.

Part 6 also provides greater incentives to the parties to resolve claims. Any party who elects to reject an offer of compromise and proceed to the Tribunal and who does not improve its position will risk incurring a cost penalty. This will ensure parties take a more realistic approach to settlement. The Tribunal must impose the cost sanctions and will only have a limited discretion to decide not to impose the penalties.

Under the new claims process there will be a need to manage the risk that some parties will deliberately not participate in the new claims resolution process in good faith, or will otherwise fail to meet their obligations as part of the new claims resolution process.

One strategy for controlling this risk is for the claimant or defendant to serve an offer of compromise on the other party. This strategy is likely to be much more effective as a result of the strengthening of the offer of compromise rules.

The Bill implements recommendations of the Review to improve processes so that they are effective. Parties should get the information which they need to assess their positions as early as possible. The parties are also provided with the tools to encourage the early settlement of claims, thus reducing legal costs.

Even with these reforms, however, it will still be up to the parties to obtain the benefits of the reforms by, for example, making offers of compromise which are realistic and which are intended to promote settlement. The parties will need to approach claims with the intention of resolving them quickly and efficiently.

This is particularly the case for defendants who will need to take a commercial approach to resolving claims. It will be essential that defendants weigh the potential costs of taking particular actions, such as ordering an additional medical report rather than relying on the claimant's report or in deciding to join or cross-claim against another defendant, against the benefits that such action might have in terms of the defendant's overall position on the claim.

One of the key recommendations of the Review was that there be a further review in 12 months time to assess how the scheme is performing.

To ensure that reliable data is available for the purposes of this review, the Bill amends the Act to require legal practitioners to report information on claims.

The Review found that there was very little reliable data on claims and claim costs.

Clause 79 of the Regulation provides that from 1 July 2005 information on all claims settled or determined must be provided to the Registrar of the Tribunal.

This information will provide the Government with a reliable source of information to assist understanding of these claims and support future policy making. The information will be provided in a standard form and will include information on the claimant's injury, the amount of damages obtained and details about the party's legal costs and disbursements on a solicitor/client basis. The Bill and Regulation contain stringent confidentiality provisions to ensure that the privacy of parties is maintained.

The individual reports provided to the Registrar will not be subject to the Freedom of Information Act 1989. The

Government will, however, be able to request the preparation of consolidated, de-identified reports of the information contained in the database. These data reports will be subject to applications under the Freedom of Information Act 1989.

The data collected as a result of these provisions will be a valuable source of information and will greatly assist future reviews of this area. More importantly, the availability of such data will inform the parties of areas of unnecessarily high costs so they can modify their behaviour if they wish to reduce costs.

A number of other changes are also made by the Bill.

The Bill also amends the Act to require a judgment of the Tribunal to identify issues of a general nature determined on the basis of their determination in earlier proceedings, which prevents issues being re-litigated or reargued.

The Bill and Regulation also make a number of amendments in light of the Tribunal's inclusion in the Civil Procedure Bill 2005 and the Uniform Civil Procedure Rules.

The Review recommended that the Tribunal be included in the Civil Procedure Bill when it was introduced into Parliament. The Civil Procedure Bill was introduced on 6 April 2005.

The Civil Procedure Bill and the Uniform Civil Procedure Rules will consolidate provisions about civil procedure that are currently found in a number of different Acts and rules into a single Act and set of rules.

Some aspects of the Civil Procedure Bill and Uniform Civil Procedure Rules need to be modified to apply to the Tribunal, to take account of the Tribunal's specialised jurisdiction and the new claims resolution process.

Amendments to the Civil Procedure Bill are contained in Schedule 3 of the Bill. Schedule 4 of the Bill contains an amendment to the Dust Diseases Tribunal Rules in light of the Civil Procedure Bill and Rules.

Schedule 4 of the Bill also amends the Dust Diseases Tribunal Rules so that the number of interrogatories is limited to 30 as they are in the existing Supreme Court Rules 1970.

I would like to emphasise that it will now be up to the parties to ensure that they and their lawyers use the tools contained in the Bill and Regulation. Much of the success of these reforms depends on the parties and their legal representatives actively using the new procedures in good faith.

It should also be noted that there are a number of other changes currently impacting on the dust diseases jurisdiction. The recent decision of the High Court in *Schultz* has apparently reduced the scope for claims to be brought in the Tribunal, and some claims may be transferred to other jurisdictions. It needs to be recognised that this uncertainty might affect the operation of the system.

It also should be recognised that there is a risk that in the short term legal costs could in fact increase as parties 'test' the limits of the new system, particularly in relation to the proposed standard presumptions on apportionment.

The Review's report recommended that the new claim resolution process commence on 1 July 2005. The Government intends to progress the legislation through Parliament before the end of May. The support of all Members is sought for this to occur. This will give both plaintiff and defendant practitioners a full month to prepare before the new system commences on 1 July 2005.

I again emphasise that defendants in particular have a large role to play in reducing costs. They will need to take a commercial approach to resolving matters so that they can achieve the full of benefits of this new system. While it will take time to settle, longer term the prospects for real savings to be achieved are substantial.

I commend this Bill to the House.