



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**SAFETY, REHABILITATION AND  
COMPENSATION AND OTHER  
LEGISLATION AMENDMENT BILL 2006**

**Second Reading**

**SPEECH**

**Thursday, 30 November 2006**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Thursday, 30 November 2006  
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**Questioner**  
**Speaker** Andrews, Kevin, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr ANDREWS** (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.13 am)—I move:

That this bill be now read a second time.

This bill will amend the Safety, Rehabilitation and Compensation Act 1988 (SRC Act), which is the legislative basis for the Commonwealth Workers Compensation Scheme.

The scheme has come under growing pressure in recent years from increasing numbers of claims, longer average claim duration and higher claim costs. This is, in part, a result of court interpretations of the legislation, some of which have departed from the initial intent of the legislation. The principal amendments contained in this bill are intended to maintain the financial viability of the scheme. The amendments will also improve the administration and provision of benefits under the scheme.

The definitions of ‘disease’ and ‘injury’ are of central importance to the SRC Act. These definitions will be amended to strengthen the connection between the employee’s employment and the employee’s eligibility for workers compensation under the scheme.

The act currently requires a material contribution by employment to a disease before compensation is payable. When originally enacted this provision was meant to establish a test requiring that an employee—and I quote from the then minister’s second reading speech in 1988—‘demonstrate that his or her employment was more than a mere contributing factor in the contraction of the disease’. The issue being addressed was—and again I quote from the then minister’s 1988 second reading speech—‘the Commonwealth being liable to pay compensation for diseases which have little, if any, connection with employment’. Notwithstanding this clear expression of legislative intent, the courts have read down the expression ‘in a material degree’ to emphasise the causal connection between the employment and the condition complained of rather than the extent of the contribution itself.

The bill therefore includes an amendment to restore the initial legislative intent by requiring that an employee’s employment must have contributed in a significant way to the contraction or aggravation of the employee’s ailment.

The current definition of ‘injury’ contains exclusionary provisions which prevent compensation claims being used to obstruct legitimate administrative action by management. These provisions ensure that compensation is not payable in respect of an injury, usually a psychological injury, which arises from reasonable disciplinary action taken against an employee, or a failure by the employee to obtain a promotion, transfer or benefit in connection with employment. The exclusionary provisions are being updated and expanded to include other similar activities which are also regarded as normal management responsibilities—provided, of course, that they are reasonably undertaken. These include matters such as a reasonable appraisal of the employee’s performance, and reasonable counselling action taken in respect of the employee’s employment.

These amendments to the definitions of ‘disease’ and ‘injury’ seek to restore the operative effect of the legislation to what parliament and the then government intended back in 1988.

The bill also amends the provisions that set out the circumstances in which an injury to an employee may be treated as having arisen out of, or in the course of, his or her employment.

In its March 2004 report on National Workers Compensation and Occupational Health and Safety Frameworks, the Productivity Commission recommended that coverage for journeys to and from work not be provided, and for recess breaks and work related events should be restricted to those at workplaces and at employer sanctioned events. The fundamental common-sense principle underlying the Productivity Commission’s recommendations was, of course, that employers should only be held liable for conduct which they are in a position to control.

Consistent with the Productivity Commission's approach, the SRC Act will be amended to remove coverage for injuries sustained by employees during journeys between home and work and during recess breaks undertaken away from the employer's premises—for example, lunch breaks during which an employee leaves the employer's premises to go shopping.

Employers cannot control circumstances associated with journeys to and from work or recess breaks away from employer premises and it is not appropriate for injuries sustained at these times to be covered by workers compensation.

The bill also enhances various entitlements available to employees under the principal act. The bill will amend the method for calculating retirees' incapacity benefits to take account of changes in interest rates and superannuation fund contributions since the time the act was first introduced. The change in the interest rate provision would result in increased benefits payable to retirees. Amending the notional superannuation deduction would restore the original policy intent by providing for benefits to affected retirees to be set at 70 per cent of pre-injury normal weekly earnings.

The bill will also increase the maximum funeral benefits payable under the SRC Act—and its counterpart for members of the defence forces, the Military Rehabilitation and Compensation Act 2004—to bring these closer into line with actual funeral costs.

Finally, the bill includes a number of minor technical amendments to the SRC Act which correct anomalies that adversely affect the efficient operation of the act or are inconsistent with the original policy intent behind particular provisions. I commend the bill to the House.

Debate (on motion by **Mr Laurie Ferguson**) adjourned.