



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES
SAFETY, REHABILITATION AND
COMPENSATION AND OTHER
LEGISLATION AMENDMENT BILL 2006

Second Reading

SPEECH

Thursday, 7 December 2006

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

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Questioner
Speaker Andrews, Kevin, MP

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Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (12.30 pm)—in reply—I thank the member for Corangamite for his contribution and other members for their contributions to this debate. The Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006 amends the Safety, Rehabilitation and Compensation Act 1988, primarily to maintain the financial viability of the Commonwealth workers compensation scheme and to facilitate the provision of benefits under the scheme. The scheme has come under added 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 rulings that have expanded the scope of the scheme beyond what was initially intended by the previous government and agreed by this parliament.

The main amendments contained in the bill therefore seek to address these issues. The bill will amend the definitions of disease and injury, which are of central importance in the SRC Act, to strengthen the connection between the employee's employment and the employee's eligibility for workers compensation under the scheme. The bill does this in two ways: first of all, the bill amends the definition of disease to ensure that Comcare is not liable to pay compensation for diseases which have little, if any, connection with employment. The amendment requires that an employee's employment must have contributed in a significant way to the contraction or aggravation of the employee's ailment before compensation is payable. This replaces the current test, which requires a material contribution by employment to the disease before compensation is payable.

When originally enacted by the previous Labor government, it was understood that the material contribution test required an employee to demonstrate that his or her employment was more than a mere contributing factor to the contraction of the disease. However, 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 amendment therefore restores the original legislative intent.

Secondly, the bill amends the definition of injury to expand and update the existing exclusionary provisions to prevent workers compensation being payable in respect of an injury, usually a psychological injury, arising from legitimate administrative action taken by management. This would include, for example, reasonable appraisal of the employee's performance and reasonable counselling action taken in respect of the employee's employment.

The bill also amends the provisions that set out the circumstances in which an injury to an employee may be treated as having risen out of, or in the course of, his or her employment. Specifically, the amendments will remove coverage for injury sustained by employees during journeys between home and work and during recess breaks undertaken away from the employer's premises. These amendments are consistent with the recommendations made by the Productivity Commission 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 coverage for recess breaks and work related events should be restricted to those at workplaces or at employer sanctioned events. The fundamental common-sense principle underlying the Productivity Commission's recommendations was that employers should only be held liable for conduct that they are in a position to control. Employers cannot control circumstances associated with journeys to and from work or recess breaks taken away from employer premises, and it is not appropriate for injuries sustained at these times to be covered by workers compensation.

The bill is also about enhancing 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. The change in the interest rate provision would result in increased benefits payable to retirees. The bill will also increase the maximum funeral benefits payable under the SRC Act, and its counterpart for members in the Defence Force, the Military Rehabilitation and Compensation Act 2004, to bring these benefits closer into line with actual funeral costs.

The bill also provides a further reference scale for adjusting employee entitlements under the scheme. Where an employee's normal weekly earnings cannot be updated by reference to the rates contained in those instruments currently referred to in the SRC Act, benefits will be updated by reference to an Australian Bureau of Statistics index, which will be prescribed in the regulations.

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 the particular provisions. I commend the bill to the House.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.