

WORKERS' COMPENSATION AND INJURY MANAGEMENT AMENDMENT BILL 2017

Introduction and First Reading

Bill introduced, on motion by **Mr W.J. Johnston (Minister for Commerce and Industrial Relations)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR W.J. JOHNSTON (Cannington — Minister for Commerce and Industrial Relations) [12.29 pm]: I move —

That the bill be now read a second time.

Tragically, each year there are around 20 traumatic work-related fatalities in Western Australia. For every worker killed on the job, many more immediate family members, friends and colleagues are affected. The impact of a death in the workplace is exacerbated for those family members who are financially dependent on the worker who has died. The Workers' Compensation and Injury Management Act 1981 currently provides entitlements for dependants of deceased workers, but the entitlement levels are inadequate and the legislative arrangements are complex.

In 2014, WorkCover WA's "Review of the Workers' Compensation and Injury Management Act 1981: Final Report" highlighted some of the current deficiencies and recommended a number of changes to improve compensation for dependent family members. The main issues are the current inadequacy of both the lump sum entitlement payable to the spouse or de facto partner of the worker and the child's allowance payable to dependent children. Both entitlements are low in comparison with those in other states and territories. Currently, dependent partners of workers tragically killed at work must prove their level of dependency and have the meagre entitlement significantly reduced if they earn a modest income themselves. In the modern working and economic environment, many families rely on two incomes to make ends meet. The surviving partner of a worker, who is already faced with the grief and loss of a loved one, should not be financially penalised in the compensation system because they also work. De facto partners also are currently denied compensation because of outdated definitions. Unless a de facto partner had been living with the worker for at least two years prior to their death, there is no entitlement. It is unfair and out of step with community expectations.

Although WorkCover WA's final report was tabled in Parliament in 2014, no bill was introduced by the previous government to fix these problems. The McGowan Labor government is acting on these issues and, through this bill, will ensure that dependent family members of workers killed on the job receive fair and reasonable compensation.

Firstly, the bill will significantly increase the lump sum payable to dependants from \$308 339 to \$562 303. The new amount will be set at 250 per cent of the current maximum amount payable to injured workers for non-fatal injuries and will be indexed annually. The lump sum will be payable to dependent partners and children with the apportionment between them set in statute. This will provide certainty as to the amount payable to each dependant. No longer will partners of deceased workers be required to prove their exact financial level of dependency or have their entitlement significantly reduced because they happen to receive a modest income themselves. Unlike current arrangements, dependent children also will receive a share of the lump sum, in addition to the weekly child's allowance.

Secondly, the bill will more than double the weekly child's allowance payable for the benefit of dependent children. The amount will increase from \$58.90 a week to \$133 a week and also will be indexed annually. This allowance provides financial support towards the daily living expenses associated with raising children and will continue to be paid through WorkCover WA's trust account established for the benefit of each child.

Thirdly, the bill will remove the outdated definition of "de facto partner". Under the current legislation, any de facto partner must have been living with the deceased worker for at least two years immediately prior to death in order to qualify for compensation. This inequitable and discriminatory requirement was most recently highlighted in 2015 when a dependent partner of a construction worker who was tragically killed was denied compensation, having fallen just short of the two-year period. This was despite having clear evidence of being in a long-term, committed relationship. A de facto partner will have the meaning given in the Interpretation Act 1984, which is adopted in most statutes in Western Australia. The arbitrary two-year period will no longer apply.

Fourthly, the bill will provide greater clarity and support for claimants seeking compensation. Workers' compensation insurers and self-insurers will be expected to assess claims quickly, and a fast-track process to a WorkCover WA arbitrator will ensure that orders for compensation are expedited. WorkCover WA will also provide guidelines and support to family members in the claim process.

By introducing this bill, the McGowan Labor government will see dependent family members of workers killed on the job receive fair and reasonable compensation that is prioritised and expedited.

I commend the bill to the house.

Debate adjourned, on motion by **Mr A. Krsticevic**.