

WORKERS' COMPENSATION AND REHABILITATION AMENDMENT BILL 2000

Assembly's Message

Message from the Assembly notifying that it had disagreed to the amendments made by the Council and had substituted amendments in their place, now considered.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

The amendments made by the Council were as follows -

No 1.

Clause 2, page 2, line 2 - To insert before the words "This Act" the following words -

- (1) Section 4(2)(a) of

No 2.

Clause 2, page 2, line 2 - To delete "comes" and substitute "is deemed to have come".

No 3.

Clause 2, page 2, line 2 - To insert after "operation on" the words "and from 5 October 1999 being".

No 4.

Clause 2, page 2, lines 2 and 3 - To delete "it receives the Royal Assent" and substitute "section 93E of the principal Act had effect".

No 5.

Clause 2, page 2, after line 3 - To insert the following new subclause -

- (2) Section 4(1) and 4(2)(b) and (c) come into operation on the day on which this Act receives the Royal Assent.

The amendments substituted by the Assembly for the amendments made by the Council were as follows -

Clause 2, page 2, lines 2 and 3 - To delete the lines and substitute the following -

- (1) Except as stated in subsection (2), this Act is deemed to have come into operation on the day on which section 32 of the *Workers' Compensation and Rehabilitation Amendment Act 1999* came into operation.
- (2) Section 1, this section, and section 4(2)(b) come into operation on the day on which this Act receives the Royal Assent.

Clause 4, page 2, lines 18 to 21 - To delete the lines and substitute the following -

- (b) although a question of whether the degree of disability is not less than 16% was referred to the Director under section 93D(5) not less than 21 days before the termination day, at the end of the seventh day before the termination day the Director has not given the worker notice in writing that an agreement or determination of the question has been recorded,

Clause 4, page 2, line 27 - To delete the line and substitute the following -

Director gives the worker notice in writing that an agreement or determination of the question has been recorded.

Hon PETER FOSS: I move -

That the Legislative Council does not insist on its amendments and agrees to the Assembly's amendments substituted.

Hon HELEN HODGSON: The message is quite interesting because it rewrites four of the original clauses of the Bill in their entirety. Obviously the matter has been reviewed to ensure it is within the scope of the Bill. However, when there is such a substantive rewrite, one must wonder where we are coming from in the first place. At least we are continuing to agree that we are amending the same Act; that is the only clause that has not changed between the original Bill and the message that is before us now. It is a fix on a fix on a fix. No-one would have any doubt about how I feel about the way we have tinkered with the workers compensation system

over the past three years. I do not believe this Bill will improve the situation dramatically. It will improve one aspect of the problems that workers are facing, but it is only tinkering around the edges; it will not make any substantial difference to the workers compensation system as it stands.

There are three basic areas in the message. The first one deals with the date on which the Bill will come into effect. I find it interesting that the original Bill stated that the Act would come into effect on the day on which it received royal assent. That is now to be replaced, and one part will come into operation on the date of royal assent, and the date of operation for the other part will be the original date of the amendments to the Workers' Compensation and Rehabilitation Amendment Act 1999. The interesting point is that the message was dated and sent to this House on 25 June this year. It is now November and, in the context of amendments which will come into effect only on the date of royal assent, it is a lengthy time lag for legislation that we were all told was urgent and would fix the system. I in no way criticise members who were absent from the Chamber on parliamentary business when this matter came up on the last sitting day. In fact, there was discussion then about the reasons members were not in the Chamber to debate the Bill. However, that is only one day out of the five months that have elapsed since June when this message was received.

The second element of the message deals with an extension of time to lodge a claim with the director. The original Bill dealt with it in very vague terms by referring to disputes. At least this message clarifies the terms of a dispute and gives reasonable time frames. The problem has been that an injured person did not necessarily have notice in time to act before his or her time expired. The original Act referred to a dispute being resolved. The amendment referred to the notice as seven days before the termination day. The message has at least tidied it up and provides that seven days before the termination day a person still has the advantage of accessing the extension. Therefore, in that sense it clarifies the Act, and it is an improvement on what originally came into force when section 93E was inserted into the Act last year.

The third part of the message deals with notice in writing being required before the final expiry date. That will make the system more practical, because if the notice is not in writing, the worker does not necessarily know whether the matter has been resolved in order that he can act upon his rights. On balance, I suppose this does something to improve the rights of injured workers when there is a disagreement about the extent of their injuries. The Law Society of WA and the industry want this to be enacted. However, on balance, the system is in such a mess at the moment that I do not think this will go very far towards correcting many of the basic underlying inequities of the legislation. For that reason, although the Australian Democrats will not oppose the Bill, it is difficult for me to say that it has my wholehearted support.

Hon PETER FOSS: The first substituted amendment relates to retrospectivity. The original amendment was moved by Hon Helen Hodgson in this Chamber, and the drafting was such an awful mess that it had to be fixed up in the other place. A fixed-up version is now back in this Chamber. It is a bit much for her to complain. Part of the reason for delays in this place is that the Government does not seem to be able to bring on any item of business - even the most simple matters which seem to be agreed to - without some members feeling compelled to speak at length on it. That means every Bill dealt with in this Chamber is the subject of interminable debate. I do not intend to make this one any longer.

Hon N.D. GRIFFITHS: In light of the Attorney General's comments, I think it is appropriate that I make some observations. The Australian Labor Party does not hold up matters. I will not hold this up.

Question put and passed; the Council's amendments not insisted upon and the Assembly's substituted amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.