

WORKERS COMPENSATION AND INJURY MANAGEMENT BILL 2023
WORKERS COMPENSATION AND INJURY MANAGEMENT AMENDMENT BILL 2023

Third Reading — Cognate Debate

Resumed from 21 September.

HON NICK GOIRAN (South Metropolitan) [1.20 pm]: I rise briefly to indicate that I concluded my contribution to the third reading debate coinciding with the adjournment of the house on 21 September.

HON BEN DAWKINS (South West) [1.20 pm]: I rise to talk about the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023. These are bad bills. They are terrible bills. I will vote against them, and I ask others to consider doing the same. This is highlighted by a blatant refusal of the government to take into account the glaring problems with the legislation that have been exposed by Hon Nick Goiran, as well as a bald-faced refusal to accept the submissions of industry experts—in this case, the Australian Lawyers Alliance and the parliamentary secretary's own union, the Construction, Forestry, Mining and Energy Union, which put him in the role that he is now in.

Hon Matthew Swinbourn: Hang on; I don't think they put me in the parliamentary secretary role.

Hon BEN DAWKINS: I was talking about parliamentary secretary Hon Matthew Swinbourn.

Hon Matthew Swinbourn: That's me!

Point of Order

Hon SUE ELLERY: There are two things. Firstly, it might be helpful for new members to understand what a third reading contribution is about. Secondly, we have standing orders about reflecting on members, and the member is in breach of that standing order.

The PRESIDENT: Honourable member, I think a number of factors need to be considered here. At this stage, I will invite the honourable member to direct his remarks to the chair and to remain focused on the content of his third reading contribution, and also to consider the particular requirements in the standing order on third reading contributions. At this stage, I would like to hear more from the honourable member, to continue to make that assessment.

Debate Resumed

Hon BEN DAWKINS: It may be that my friends on the other side were referring to Minister Johnston, who brought in these bills, and not the parliamentary secretary; that might be what they are referring to. In any case, these bills are a rip-off. This legislation will rip off injured workers to the benefit of insurers, big miners and big employers in general. It will rip off workers in the building industry. Again, I say that these are workers from the parliamentary secretary's own union.

Several members interjected.

The PRESIDENT: Order, member! You have already been asked to consider reflecting on members in your contribution. I invite you to stay focused on the contents of the third reading in order to do that effectively.

Hon BEN DAWKINS: The CFMEU does not support the clauses in these bills that I am talking about. This legislation will abandon workers in Western Australia. The last time I checked, the Labor Party was a party for the workers. What has happened to the social contract that should exist whereby elected MPs serve the people who put them into power?

Point of Order

Hon SUE ELLERY: I think it would be helpful for the member to understand what a third reading contribution is meant to do, which is address the bill as it has come through the committee process, not to reflect on his view of the politics in the Labor Party or anywhere else. A third reading contribution is quite specific. It is about summarising the bill as it has come through the committee stage and articulating why a member does or does not want to support it.

The PRESIDENT: Thank you, Leader of the House. You are quite correct in your interpretation, as I understand it, of standing order 141.

I remind the honourable member of the limited scope of third reading debates, and that, in particular, contributions should be limited to the contents of the bill as agreed by the Council in the Committee of the Whole stage, and not venture outside those very tight confines. I note that this is the second time I have had to draw the honourable member's attention to the scope as considered in standing order 141, and I remind the honourable member to remain within the scope; otherwise, his contribution will be ruled out of order.

Debate Resumed

Hon BEN DAWKINS: Thank you, President. Can I talk about the submissions from experts?

Several members interjected.

Hon BEN DAWKINS: I will go a bit further down. In the first instance, I refer to clause 12 of the Workers Compensation and Injury Management Bill 2023, which gives a redefinition of “worker”. The words are clear. The parliamentary secretary has said that it is not the government’s intention to exclude workers, but the words are clear. Contractors will be excluded by clause 12. I read from clause 12(2)(c)(i). It states that a worker is covered if —

the work is not work in the course of or incidental to a trade or business regularly carried on by the individual in the individual’s own name or under a business or firm name ...

Therefore, contractors will be excluded.

I will omit some of my other commentary.

The Australian Lawyers Alliance, which has given submissions in these proceedings, has said that the altered definitions in clause 12 will create a “significant and unjustified disadvantage to injured persons in Western Australia.” This is because it will exclude a whole class of workers who are currently covered by the act—broadly speaking, contractors. I do not need to say any more, but I will not sell out people and workers and wave these bills through. I will not write a blank cheque to the government by trusting it to put something in the regulations to fix this problem. I have no control over the regulations. It is my duty to try to stop these bills in their tracks. I am doing the government a favour, because these bills are an embarrassment and will be proven —

Several members interjected.

The PRESIDENT: Order, member! I remind you again about the scope. The point of this debate is not to re-prosecute the argument, but to talk about the clause or the bill as it has come through the committee stage. It is not to re-prosecute the argument.

Hon BEN DAWKINS: Yes, President. I turn to the section on psychological harm. This is another reason I will not support these bills. I rely on what has already been put before this house. Essentially, allowing this legislation will expand the exclusion for what is called management or administrative action. If the changes to this part of the act go through, we will be in a position in which, in a pub, the boss will be able to say to his worker, “Lift your game, mate.” That will be informal administrative action and that will then exclude that worker from bringing a claim for psychological harm. Again, I say that that is an unacceptable exclusionary provision for stress claims. I am simply summarising the clauses, as you have asked me to, President, and explaining why I will be voting against the bills. In the era of mental health, it is unacceptable to exclude that number of claims by expanding the exclusionary clause. It is already overused by insurers to deny claims. As I have worked in the area, I know that insurers like to use it to deny claims. They say that the worker is under performance management so they cannot bring a claim for psychological harm. I have also worked in the human resources area and it happens there as well. In any case, I do not know why that is being expanded. It will help only the insurers and employers; it will not help the workers.

I turn now to the part of the bill that will remove the provision for common-law settlements. These are used currently for disadvantaged injured people in my electorate and in all members’ electorates to obtain compensation for an injury. This pathway towards settlements for compensation will be removed. The Construction, Forestry, Mining and Energy Union does not support that either. Being mindful of what you have told me, President—I will have to read that part of the standing orders—I would say that there is no basis for that. From looking at the submissions that were included in the final report by WorkCover WA, it appears that no industry group, other than WorkCover itself, wanted to knock that pathway on the head. A whole swathe of workers will be excluded from workers compensation coverage under this bill. I do not know whether that will be rectified in the regulations. It will take away millions of dollars of potential compensation for those bullied at work and who suffer psychological harm—I have spoken about that provision—and will remove options for settlements for people needing money for their injuries, or compensation. I do not know where the basis of this has come from. It can assist only the big end of town—the big employers, the big miners and, generally, big business.

From where I stand, it is entirely unacceptable for a bill that will completely rip off the worker to go through Parliament. Maybe that is because I have only recently taken my oath to represent the people of Western Australia. I do not support the bills and I ask others to consider these items as well.

HON MATTHEW SWINBOURN (East Metropolitan — Parliamentary Secretary) [1.32 pm] — in reply: I will be very brief, because the parliamentary record is important. We have put a lot of matters on the parliamentary record during the Committee of the Whole House, so if anybody has had any regard to the contribution of Hon Ben Dawkins, please disregard what he has said; it is completely misleading. It does not reflect the content of the Workers Compensation and Injury Management Bill 2023 and the Workers Compensation and Injury Management Amendment Bill 2023. It certainly does not reflect what the bills will achieve. If someone has got this far in *Hansard* and they have read his contribution, I ask them to please disregard it.

Point of Order

Hon BEN DAWKINS: “Misleading” is a big word.

Hon Matthew Swinbourn: What’s your point of order?

Hon BEN DAWKINS: Personal reflection, thank you, Hon Matthew Swinbourn.

Hon Sue Ellery: No; he didn’t make a personal reflection. He just told everyone else to disregard what you have said.

Hon BEN DAWKINS: No. He is accusing me of misleading Parliament.

The PRESIDENT: Order, member. I assume that you are referring to personal reflection. However, my understanding of what the parliamentary secretary said is that he was correcting the record, and that was not a statement directed at an honourable member. There is no point of order.

Debate Resumed

Hon MATTHEW SWINBOURN: For the sake of not descending into further farce, I will make my contribution exceptionally short. As I said, the contribution of the honourable member had the propensity to confuse and mislead people who might read it, so they should completely disregard it. I also make the point that I do not think he speaks on behalf of anybody at the Construction, Forestry, Mining and Energy Union, and I suggest that he not purport to do so.

Hon Ben Dawkins interjected.

Hon MATTHEW SWINBOURN: As I said, I do not think he speaks on behalf of the CFMEU. The Western Australian people put me in this Parliament, not the CFMEU, by the way, so it would be nice if he corrected the record.

In any event, I would like to put on the record that I appreciate the contributions made by several members during the debate on the bills. It was a lengthy one and I think it was largely a collegial one. I believe that a lot of matters that were required to be explained and clarified were done so to the satisfaction of most members of the house. I appreciate the input of Hon Nick Goiran, particularly on the amendment that we agreed to and drafted and that the chamber endorsed.

I would also like to thank the advisers from both the minister’s office and WorkCover WA, who were exceptional. I do not think their motives and intentions can be questioned at any level.

As I say, these are very good bills. This is not a reform; this is a rewrite. The bills contain a number of important additional protections and benefits for workers, and we have been up-front about any change that may be detrimental to workers.

I commend the bills to the house.

The PRESIDENT: I will now put the question that the Workers Compensation and Injury Management Bill 2023 be read a third time.

Division

Question put and a division taken with the following result —

Ayes (29)

Hon Martin Aldridge
Hon Klara Andric
Hon Dan Caddy
Hon Sandra Carr
Hon Peter Collier
Hon Colin de Grussa
Hon Kate Doust
Hon Sue Ellery

Hon Donna Faragher
Hon Lorna Harper
Hon Jackie Jarvis
Hon Louise Kingston
Hon Ayor Makur Chuot
Hon Steve Martin
Hon Sophia Moermond
Hon Shelley Payne

Hon Dr Brad Pettitt
Hon Stephen Pratt
Hon Martin Pritchard
Hon Samantha Rowe
Hon Tjorn Sibma
Hon Matthew Swinbourn
Hon Dr Sally Talbot
Hon Dr Steve Thomas

Hon Neil Thomson
Hon Dr Brian Walker
Hon Darren West
Hon Pierre Yang
Hon Peter Foster (*Teller*)

Noes (1)

Hon Ben Dawkins (*Teller*)

Question thus passed.

Bill (Workers Compensation and Injury Management Bill 2023) read a third time and returned to the Assembly with amendments.

The PRESIDENT: I will now put the question that the Workers Compensation and Injury Management Amendment Bill 2023 be read a third time.

Question put and passed.

Bill (Workers Compensation and Injury Management Amendment Bill 2023) read a third time and passed.