

**MINES SAFETY AND INSPECTION AMENDMENT BILL 2004**

*Returned*

Bill returned from the Council with an amendment.

*Consideration in Detail - Motion*

On motion by Mr C.M. Brown (Minister for State Development), resolved -

That the Council's amendment be considered forthwith

*Council's Amendment - Consideration in Detail*

The amendment made by the Council was as follows -

New clause 85A, page 112, before line 1 - To insert the following new clause -

**85A. Section 76 amended**

Section 76 is amended by deleting all words in subsection (1) before paragraph (a) and inserting instead -

“

Where a person suffers injury in an accident at a mine and is disabled by that accident from performing his or her duties of employment as they were being performed at the time the accident occurred, the manager must cause notice of the accident to be given -

”

Mr C.M. BROWN: I move -

That the amendment made by the Council be agreed to.

The amendment relates to the obligations of a mine manager to report an accident that occurs at a mine site. The Council's debate on the amendment is reported in *Hansard* at pages 8245 to 8247. Essentially it turns on the argument of whether it is appropriate for a report to be made when a person is injured at a mine site and that person continues to work on light duties as a result of that injury. It was not a government amendment as such. After, albeit fairly quick, consultation with interest groups involved with the legislation, the Government agreed to some redrafting to accept the amendment. The amendment currently before us is the redrafted amendment. In all these matters it is important that we have information about accidents. This clause will continue to facilitate that arrangement.

Mrs C.L. EDWARDES: I do not think there is any difficulty with the reporting of accidents, and whether a person suffers an injury or is disabled as a result of the accident. The amendment turns on a change to the wording in relation to what a person was doing at the time of the accident. Section 76 of the Mines Safety and Inspection Act currently refers to “following his or her ordinary occupation”. The change in wording is to “performing his or her duties of employment as they were being performed at the time”. What will this change mean in practice? If a person were undertaking higher duties or doing a different job, would that necessarily impact on reporting requirements? Would an incident not be reported in any event even if a person was not carrying out the duties of his or her ordinary occupation?

Mr C.M. BROWN: The member for Kingsley is correct in saying that the words that have been included in the amendment require a report to be provided when someone is not able to do the duties he or she was performing at the time of the accident. An issue was raised, not by the Government but by others in the other place, that a person may be injured and unable to do his or her current job but nevertheless be able to continue to work. In those circumstances the matter should still be reported. The mere fact that a person can move to a job that he or she was not performing at the time and might be unusual to them, and that has come about as a result of an injury or accident, does not mean that an accident should not be reported.

One could take it to mean, in an absolutely literal sense, that if I were a mine worker and I had the skills to drive a piece of equipment that was rarely used, say, for only two hours a month, and I happened to be using that piece of equipment when I injured myself and then went back to my normal occupation, the accident would require reporting. In my judgment that would be a very literal interpretation of the words. If a person is carrying out a job and, as a result of an injury, is unable to do that job, he might nevertheless continue to work. The practice in parts of the industry is to provide alternative work for people who are injured at work rather than those people remaining at home. Some people think that is a good thing and some people think it is not such a good thing. I believe the argument continues to rage on that point. This amendment will ensure that when an accident occurs,

it will be recorded and picked up. If there is to be a policy argument at some point in the future, at least some reporting arrangement will be in place and some statistics will be available, which will enable informed debate.

**Question put and passed; the Council's amendment agreed to.**

**The Council acquainted accordingly.**