

OCCUPATIONAL SAFETY AND HEALTH AMENDMENT BILL 2002

Second Reading

Resumed from an earlier stage of the sitting.

MRS EDWARDES (Kingsley) [2.45 pm]: The provisions of the Bill will cover police officers. Prior to question time I was talking about the sorts of areas in which there will be a need for a considerable amount of work to ensure minimisation of risk.

The **SPEAKER**: Order! I cannot hear the contribution to this debate of the member for Kingsley. I can hear many other contributions to some sort of debate, but it is not the debate that we are having in this place. If any members wish to speak on side issues, they will go outside to do it.

Mrs **EDWARDES**: The work must cover a number of areas, including initial training, ongoing training, monitoring, performance assessment and assessment of all the policies under which police officers currently operate. I outlined a number of those. It must also include, very importantly, the structures within which police officers work. Obviously, considerable time will be needed to ensure that all police officers are brought up to standard and that a full assessment is carried out. If we can get the answers to those questions in the response of the Minister for Police and Emergency Services, we will not need to go into the consideration in detail stage and we can progress the legislation fairly quickly through this House. Could the minister update us on the current position of the protocols that cover the agreement between the Police Service and WorkSafe? Could the minister indicate what the protocols will contain, the direction they will take and the cost of implementing the legislation? There will obviously be a cost factor. What is the period of time over which the minister proposes that this be carried out? The minister was not in the House earlier when I was talking about some of the issues, like two-men patrols and the carrying of firearms. What work has been done on those policies to make them fit within the proper processes of the Occupational Safety and Health Act? Once the legislation has passed through both Houses, how quickly will the Government be able to proclaim it? I note there is a time period before it will take full effect, which is to allow safety officers to be elected, fully trained and so on. Could the minister give some indication of what the proclamation date is likely to be?

I want to say thanks to the many men and women of our Police Service who do a fantastic job. Over the past few weeks in particular, there has been some negativity about the activities of what could be readily identified as the old-style copper. Those activities are no longer acceptable in the year 2002, and no-one should support them. However, that view should not reflect badly on those many honest, caring police officers who do a job that many of us would not do. When members of the community are in trouble, whom do they call? They call the police. If a loved one is killed or injured, who comes to our home or to our place of work to hold our hand as they tell us the story? Who attends horrific motor vehicle accidents and must then go home and live with the scene that they have witnessed? Who witnesses the bombings that have started to become an occurrence in Western Australia, the suicides, the domestic violence, the child abuse, and the children involved in violent situations? Who attends those incidents and sees the very worst side of people? It is our police. They must then go home to their own families and live a normal life. To those police officers, I say a very big thanks. I hope that this legislation goes some way to supporting police officers.

MR BIRNEY (Kalgoorlie) [2.49 pm]: The Occupational Safety and Health Act has been around since 1984 for good reason. The Act was designed to protect the health and safety of the work force in Western Australia. The Western Australia Police Service consists of some 5 000 police officers and is currently not subject to the Occupational Safety and Health Act. This is a somewhat grey area. I understand the weight of legal opinion is that our Police Service does not come under the auspices of that Act. With the passage of this legislation, that will change. Police officers in Western Australia are appointed to serve the Crown by the Commissioner of Police, so technically speaking police officers in Western Australia are direct employees of the police commissioner, rather than of the Crown. That is the specific reason, at least in legal circles, for our police officers not being subject to the provisions of the Occupational Safety and Health Act 1984. This Bill changes those conditions somewhat and allows our serving police officers to be considered as direct employees of the Crown, albeit that they are still responsible to the police commissioner. In doing so, it provides that the conditions of the Occupational Safety and Health Act 1984 will apply to the Police Service. The Police Union (WA) has been keen to see this progressed through the Parliament for quite some time. I am sure that the ultimate drivers of this legislation were the Police Union and its active president, Mr Mike Dean.

There are a few problems with subjecting police officers to the provisions of this Act without any qualifications. One problem is that, by its very nature, the job of a police officer is dangerous. From time to time serving police officers find themselves in situations in which serious threats may be made to their health and safety; yet they are required to carry out those duties regardless. If the provisions of the Occupational Safety and Health Act 1984 were to apply directly to police officers, with no changes whatsoever, situations could arise in which a police

officer could cite the regulations of the Act and refuse to undertake his or her duties. I am pleased to say that, as far as is practicable, this legislation addresses that problem. It uses those very words - as far as is practicable.

This Bill also addresses the problem that may arise with covert operations. A covert operation might involve a police officer going undercover. That police officer might be required to work in premises that are not owned by the Police Service or, consequently, the Government of the day. A ludicrous situation could arise if the Occupational Safety and Health Act were used to say that particular premises were not up to scratch and must be fixed, even though they were not owned by the Police Service. There are a number of anomalies of that nature. I am pleased to say that this Bill deals with those situations. To that end, this Bill ensures that covert operations will not be unnecessarily jeopardised.

I suspect that little will change in the short term following the passage of this legislation; however, in the long term, upgrades will be carried out on the more wanting police stations, some of which are lacking in basic facilities and services. That is a good thing. I am sure that members of the Western Australia Police Service also consider that to be a good thing. Only a couple of weeks ago, when the Liberal Party moved through the areas of Joondalup and Wanneroo, I had occasion to visit the Wanneroo Police Station. It is plain to see that with the passage of this legislation, the Wanneroo Police Station will be identified as one of those stations that is lacking in facilities and in need of renewal. I am told that it is on the list for renewal. That might come about fairly shortly. As time goes by, some of our older police stations will require renewal. If this Bill is passed, the legislation will provide some recourse to require the Government of the day to upgrade those facilities and provide an adequate working environment for our hardworking police officers in Western Australia.

The other point of interest is that the provisions of the Occupational Safety and Health Act might apply to the equipment that is provided to our police officers. Those provisions would ensure that the equipment was of a standard that would not jeopardise the health and safety of the officers who use it. That would be a good thing. Over time, training and supervision requirements will also be scrutinised fairly heavily. I would not be surprised if some of those training techniques and the supervision that applies to some officers were changed as a result of the passage of this legislation. We all know that protective equipment is vital for police officers in certain instances, whether it be flak jackets, helmets or anything of that nature. Although our Police Service is adequately provided with some of that equipment, this legislation would allow some recourse if that were not the case.

The legislation may well result in some changes to the operations and procedures of our Police Service. The member for Kingsley alluded to the one-man and two-man patrols. Currently, all patrols are two-man patrols. That is not to say -

Ms Quirk: Two persons!

Mr BIRNEY: The member for Girrawheen is terribly politically correct and pulled me up by saying that they are two-person patrols rather than two-man patrols. Technically, she is correct. I am probably not the most politically correct person in this Chamber, but I make no apologies for that.

This legislation may change procedures. Who knows what will happen in the future? Who knows what procedures a future Government or police hierarchy will propose for our police officers? If those propositions are not adequate for ensuring the health and safety of police officers, once again there will be some recourse.

The issue of firearms was raised some time ago, particularly with regard to Aboriginal police liaison officers carrying firearms. I suspect that had this legislation been around at that time, the Police Service might well have been prohibited from removing from Aboriginal police liaison officers the right to carry a gun. In my view, and certainly in the view of a number of people to whom I have spoken, the removal of those guns has also removed the sense of authority from Aboriginal police liaison officers. If officers do not at least carry a side-arm, it could result in physical attacks on those officers. Carrying a side-arm sends a message that an officer would be capable of defending himself if he were physically attacked. Between 19 March 2001 and 20 March 2002, no instances were recorded of Aboriginal police liaison officers drawing firearms from holsters. That begs the question: what is the problem with their having these weapons? Why would firearms be taken from Aboriginal police liaison officers when, during at least the past year, they have not had cause to draw those firearms? Firearms are a good deterrent to people who seek to physically injure those officers. It also follows that if a person has not drawn a firearm, he does not use it. There certainly have not been any instances of Aboriginal police liaison officers indiscriminately using firearms. Why were those firearms taken from them? Firearms are certainly a significant deterrent to people who seek to hurt those officers.

As I said, the legislation mainly provides for the upgrading of Western Australian police stations over a period. To that end, the Government has undertaken an audit to determine which police stations require upgrading. During the estimates hearings, I asked the minister to table such information; however, she refused to do so.

That information should be on public record. Indeed, people have a right to know if their police stations are of a substandard level. I hope the minister will table the audit in due course.

The legislation is not comprehensive. It basically makes a fundamental change that will allow police officers to be employed under different circumstances, and it will subject them to the provisions of the Occupational Safety and Health Act 1984. The real crunch will come when the agreement between the Commissioner of Police and WorkSafe WA is reached. The agreement will set out the various provisions that will apply to the Police Service, and will determine the things that it can and cannot do. Once it has been struck, I hope the Minister for Police will be forthcoming and table the agreement in Parliament.

In concluding my remarks, I leave members with a question: why should our police officers not be subject to the provisions of the Occupational Safety and Health Act? Police officers in all Australian States have an onerous job. They are a hardworking section of the public sector, and I see no good reason that the provisions of the Act should not apply to the Western Australia Police Service.

MS QUIRK (Girrawheen) [3.03 pm]: I commend the Government for introducing the legislation, which is well overdue. It is a reflection on society when we allow male and female police officers to work in a stressful occupation without legislative framework that ensures their occupational health and safety. I commend the minister for her efforts in getting the legislation before Parliament. Anyone who has taken an interest in the matter over the past decade will be aware that such legislation is well overdue. The least we as a society can do is afford our policemen and policewomen basic occupational health and safety rights.

On a number of occasions in the House, I have spoken about the challenges and stresses associated with the job of being a police officer. In the interests of accuracy, I point out to the member for Kalgoorlie that I do not respond well to the term “politically correct”. However, on such occasions I seek to be accurate. I accept that there are not enough policewomen on the force. Therefore, when the member for Kalgoorlie refers to policemen, most of the time he is right. However, I was trying to be accurate and not politically correct. The member for Kalgoorlie does not appreciate that there is a difference between accuracy and political correctness.

MRS ROBERTS (Midland - Minister for Police and Emergency Services) [3.05 pm]: I thank all members who have spoken in support of the Bill. When people read the debate in *Hansard*, I hope they will realise that the lack of speakers in no way reflects a lack of commitment to the legislation. I am sure I speak for not only members on this side of the House, but also members opposite. Only key spokespeople contributed to the debate because no-one wanted the Bill to be delayed. I thank members for their cooperation in ensuring the speedy passage of the Bill through the Legislative Assembly.

Mr Birney: Will you table the audit that was done on Western Australian police stations?

Mrs ROBERTS: I will comment on that matter in due course.

I am absolutely delighted to be the minister who has finally brought before Parliament legislation that will provide occupational health and safety standards for police officers. It is significant that occupational health and safety legislation first came into place in Western Australia in 1984. Eighteen long years later, legislation has finally been brought forward by this Government. Although there was much lip service in the past about progressing occupational health and safety legislation for police officers, no Government has taken on such a task. I am pleased that my colleagues have supported me in such a task. In particular, I thank the Minister for Consumer and Employment Protection for his support. We both have a strong commitment to the success of the legislation.

The member for Kingsley raised questions about the commencement and implementation of the Bill. As I said in my second reading speech, the majority of the Bill will come into effect 12 months from the date of royal assent. This will allow for the training of relevant police personnel. It will also ensure that we can train the health and safety representatives. The Bill provides for a nine-month transitional period, which commences from the date of royal assent. That will allow the early selection and training of health and safety representatives so that they will be ready to immediately exercise their functions. I advise that the speedy proclamation of the Act will not be impeded. I look forward to quickly progressing the Bill as soon as it has passed through Parliament.

Previous Governments have given many excuses for not progressing such legislation. Firstly, there has been the state of building stocks. Secondly, there have been issues regarding people who undertake dangerous duties. Thirdly, there have been budget implications. The Government is keen to take on board all such issues, and it also realises that a considerable amount of work must be done. That is why we have allowed a 12-month implementation period. The Government has made a commitment to the legislation, and it will provide for its orderly implementation within the 12-month period. The Government is keen to ensure that the legislation is up and running at the end of the 12 months.

The Government has committed to the legislation \$2 million per annum over the next five years. In the first 12 months, as implementation is phased in, some of the money will be available for the training of health and safety representatives, and to advise members of the Police Service. I understand that although some preliminary work was carried out on the Government's building stock, a full audit will be carried out. The parameters for the audit are currently being drawn.

Public servants who work at a number of workplaces, be they police stations, Curtin House, police headquarters or wherever, are covered by the provisions of the occupational health, safety and welfare legislation. Those who have exaggerated the costs of implementing this legislation need to take that into consideration. If some of the occupational health, safety and welfare problems were as great as has been suggested, obviously it would impact on the people already working at those locations who are covered by occupational health and safety legislation.

I have advised members that protocols will be established over that 12 months, and there is an agreement to develop a memorandum of understanding. Initial officer-level contact has taken place on the issue. A range of matters has been discussed at this point. The framework has not yet been developed, but that will get under way shortly. I am quite confident that, given the time frames allowed for, work will progress well on that framework. I cannot see any impediment to the quick assent of the Bill after its passage through the Parliament and its fuller implementation at the conclusion of the 12 months.

In conclusion, I thank all members for their commitment to provide occupational health and safety coverage for police officers in this State. They often do a dangerous and difficult job, sometimes under very difficult circumstances. The excuse that that is a reason for not providing them with occupational health and safety coverage has worn very thin. We know that police officers in other States are covered. As Minister for Emergency Services, I know that our firemen, who also face some very dangerous and difficult circumstances, are covered. Those who are familiar with the way in which occupational health and safety works will know that this places an obligation on the employer - in this case, the Police Service - as well as on the employee. Those matters need to be taken into consideration. During my second reading speech, I referred to provisions that would apply to that dangerous and difficult work, and I responded to some interjections on that matter. Again, I thank members for their cooperation. I reiterate that the brevity of this debate does not indicate a lack of interest or support. It most definitely indicates the strongest level of support by members of the House for this legislation and the occupational health and safety coverage of police officers.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate, and transmitted to the Council