



**SECOND SESSION OF THE THIRTY-SIXTH PARLIAMENT**

**REPORT OF THE**

**SELECT COMMITTEE ON**

**WORKERS' COMPENSATION**

Presented by Hon Sue Ellery MLC (Chairman)

Report 2  
November 2004

## SELECT COMMITTEE ON WORKERS' COMPENSATION

### Date first appointed:

July 24 2004

### Terms of Reference:

On July 2 2004 the Legislative Council resolved that -

- (1) A Select Committee is appointed;
- (2) Chapter XXII of the Standing Orders applies to the proceedings of the Select Committee;
- (3) The Select Committee is to inquire into and report on -
  - (a) the extent to which existing and proposed laws provided an equitable, sustainable and transparent system of compensation for persons injured in the course of, or who contract an illness or disease by reason of, their employment and whether time limitations on eligibility to claim compensation operate to the detriment of workers whose work-related illness is diagnosed after the limitation has effect;
  - (b) the sources and methods of funding the current scheme, its administration, and the efficiencies or defects with respect to any of those matters and options that would improve or supersede current practices or arrangements;
  - (c) the persons or classes of person included in the scheme and the adequacy or otherwise of the grounds for exclusion or ineligibility of those not included;
  - (d) whether the criteria on which the quantum of compensation is assessed are appropriate or unduly restrictive or act as a disincentive to participation in the scheme;
  - (e) the circumstances that determine, or should determine, payment of compensation in a lump sum or periodic instalments;
  - (f) whether it is desirable or necessary to retain an action in tort for negligence in a case where a plaintiff is, or is not, eligible to obtain compensation under the scheme and the conditions precedent (if any) governing the right to commence judicial proceedings;
  - (g) the feasibility of abolishing an action in tort and substituting a statutory cause of action arising from the imposition of strict liability; and
  - (h) any matters with respect to those described in the preceding paragraphs.
- (4) For the purposes of its inquiry the Select Committee may consider part or all of the *Workers' Compensation Reform Bill 2004* and report any findings or recommendations on that Bill during its passage. The Committee shall provide an interim report on matters relevant to the *Workers' Compensation Reform Bill 2004* on, or before, September 15 2004.

### Members as at the time of this inquiry:

Hon Sue Ellery MLC (Chairman)

Hon Jim Scott MLC

Hon Ray Halligan MLC

### Staff as at the time of this inquiry:

Laurie Marquet, Clerk of the Legislative Council

Sheena Hutchison, Committee Clerk

Nigel Pratt, Clerk Assistant

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## REPORT OF THE SELECT COMMITTEE ON WORKERS' COMPENSATION

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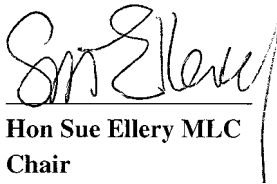
### **1 REFERENCE AND PROCEDURE**

- 1.1 On July 2 2004 the Legislative Council appointed the Select Committee to inquire into and report on the Workers' Compensation Reform Bill 2004 ('Stage 1' of the Inquiry) and on terms of reference determined by the House ('Stage 2' of the Inquiry).
- 1.2 The Committee advertised on July 24 2004 in *The West Australian* newspaper inviting submissions. Twenty-one public submissions were received in relation to Stage 1 and 7 public submissions were received regarding Stage 2 of the inquiry. A list of the Stage 2 submissions is attached at Appendix 1. The Committee thanks all those who provided submissions for the inquiry thus far.
- 1.3 This Committee provided a report on the Workers' Compensation Reform Bill 2004<sup>1</sup> in which it pointed out that the wide-ranging terms of reference would necessitate devoting a considerable amount of time to its inquiry. Some indication of how complex the inquiry would be can be gleaned from the number of submissions received on the Reform Bill, the detail most submissions contained, and the differences in views expressed in those submissions.
- 1.4 The Committee commenced its inquiry in relation to Stage 2. It canvassed the need to investigate other jurisdictions to determine what is considered to be 'best practice' in workers' compensation schemes.
- 1.5 The demands imposed on members as the end of a session becomes a reality precludes doing justice to committee inquiries. There is simply not enough time available before prorogation to enable the Committee to conduct and complete its inquiry let alone allow the Government to consider a report's findings and recommendations and prepare legislation adopting recommendations acceptable to the Government. A further disincentive is the general election that will occur early in 2005 that may, or may not, cause a change in the Government. That, and the composition of the Legislative Council after May 21 2005, are factors that will influence any decision about the continuation of this inquiry.
- 1.6 It would be regrettable if the information amassed thus far were to be archived because this inquiry is not revived by the House in 2005. This Committee would strongly recommend that the Council recommence the inquiry whether by reference to

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<sup>1</sup> Enacted November 9 2004.

a standing committee or the appointment, as is presently the case, of a select committee.



Hon Sue Ellery MLC  
Chair

**November 17 2004**

## **APPENDIX 1**

### **LIST OF PUBLIC SUBMISSIONS**

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<b>No.</b>	<b>Organisation</b>	<b>Date</b>
1.	Union Industrial Advisory Services	September 15 2004
2.	Self Insurers Association of Western Australia Inc	October 15 2004
3.	The Law Society of Western Australia	October 19 2004
4.	Chamber of Commerce and Industry Western Australia	October 25 2004
5.	National Insurance Brokers Association	October 25 2004
6.	Insurance Council of Australia	October 25 2004
7.	Unions WA	October 29 2004