

WORKERS COMPENSATION AND INJURY MANAGEMENT BILL 2023

Council's Amendments — Consideration in Detail

The following amendments made by the Council now considered —

No 1

Clause 73, Page 70, lines 10 and 11 — To delete the lines.

No 2

Clause 94, Page 82, lines 18 and 19 — To delete the lines.

No 3

Clause 195, Page 153, lines 25 and 26 — To delete the lines.

No 4

Clause 383, Page 271, lines 8 and 9 — To delete “in the *Gazette*” and insert —
in accordance with the *Interpretation Act 1984* section 41

No 5

Clause 544, Page 358, lines 22 and 23 — To delete “in the *Gazette*,” and insert —
in accordance with the *Interpretation Act 1984* section 41;

No 6

New Clause 551A, Page 363, after line 16 — To insert —

551A. Pending matters exclusion of injury: reasonable administrative action

If a pending matter relates to a disease caused by stress that is not an injury under this Act because of the operation of section 7 —

- (a) section 7 does not apply in respect of the pending matter; and
- (b) the definition of *injury* in section 5 of the former Act continues to apply in respect of the pending matter.

Mr W.J. JOHNSTON: I move —

That amendment 1 made by the Council be agreed to.

The amendment is required due to the commencement of the Legislation Act 2021 on 1 July 2023, which, among other things, provides a publication of certain subsidiary legislation on the Western Australia Legislation website, rather than in the *Government Gazette*.

Dr D.J. HONEY: I admit that I did not look at the original bill and go through those lines. Do amendments 1 through 5 simply relate to the *Government Gazette*?

Mr W.J. JOHNSTON: Yes; I am advised that amendments 1 to 5 apply to that issue.

Dr D.J. HONEY: Amendment 6 is new clause 551A. We will deal with that separately. I am fine with amendments 1 to 5.

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

Mr W.J. JOHNSTON — by leave: I move —

That amendments 2 to 5 made by the Council be agreed to.

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

Mr W.J. JOHNSTON: I move —

That amendment 6 made by the Council be agreed to.

In doing so, I let the chamber know that new clause 551A will be inserted into the savings and transitional provisions in response to a concern raised in the Legislative Council about the potential retrospective operation of clause 7 of the bill, psychological injury exclusion. The government acknowledges there may be a slight extension of the circumstance for excluding psychological injury claims on the basis of formal appraisal of performance in clause 7 of the bill. It is not the intention of government that this change in the scope of the exclusion will apply retrospectively to claims or proceedings already in train when the bill commences operation. New clause 551A clarifies this intent and will ensure that clause 7 will not apply to any pending matter relating to a disease caused by

stress. Instead, the former act definition of injury will continue to apply to all pending matters relating to stress. The term “pending matter” is already defined in clause 542 under the savings and transitional provisions, and means —
... a claim, assessment, proceeding, dispute or other matter commenced or arising under the former Act before commencement day that is pending, current or continuing under the former Act immediately before commencement day.

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

The Council acquainted accordingly.