

# **WORKERS' COMPENSATION AND INJURY MANAGEMENT AMENDMENT BILL 2017**

## **SECOND READING SPEECH**

### **LEGISLATIVE COUNCIL**

I move –

That the bill be now read a second time.

Tragically, each year there are around 20 traumatic work related fatalities in Western Australia. For every worker killed on the job there are many more immediate family members, friends and colleagues affected.

The impact of a death in the workplace is exacerbated for those family members who are financially dependent on the worker who has died.

The *Workers' Compensation and Injury Management Act 1981* currently provides entitlements for dependants of deceased workers but the entitlement levels are inadequate and the legislative arrangements are complex.

In 2014 WorkCover WA's *Review of the Workers' Compensation and Injury Management Act 1981: Final Report* highlighted some of the current deficiencies and recommended a number of changes to improve compensation for dependent family members.

The main issues are the current inadequacy of both the lump sum entitlement payable to the spouse or de facto partner of the worker and the child's allowance payable to dependent children. Both entitlements are low in comparison to other states and territories.

Currently dependant partners of workers tragically killed at work must prove their level of dependency and have the meagre entitlement significantly reduced if they earn a modest income themselves. In the modern working and economic environment many families rely on two incomes to make ends meet. The surviving partner of a worker who is already faced with the grief and loss of a loved one should not be financially penalised in the compensation system because they also work themselves.

De facto partners are also currently denied compensation because of outdated definitions. Unless a de facto partner had been living with the worker for at least two years prior to their death there is no entitlement. It is unfair and out of step with community expectations.

While WorkCover WA's final report was tabled in Parliament in 2014 no bill was introduced by the previous Government to fix these problems.

The McGowan Labor Government is acting on these issues and through this Bill will ensure dependent family members of workers killed on the job receive fair and reasonable compensation.

Firstly the Bill will significantly increase the lump sum payable to dependants from \$308,339 to \$562,303. The new amount will be set at 250% of the current maximum amount payable to injured workers for non-fatal injuries and will be indexed annually.

The lump sum will be payable to dependant partners and children with the apportionment between them set in statute. This will provide certainty as to the amount payable to each dependant. No longer will partners of deceased workers be required to prove their exact financial level of dependency or have their entitlement significantly reduced because they happen to receive a modest income themselves. Unlike current arrangements, dependent children will also receive a share of the lump sum in addition to the weekly child's allowance.

Secondly the Bill will more than double the weekly child's allowance payable for the benefit of dependent children. The amount will increase from \$58.90 per week to \$133 per week and will also be indexed annually. This allowance provides financial support towards the daily living expenses associated with raising children and will continue to be paid through WorkCover WA's trust account established for the benefit of each child.

Thirdly the Bill will remove the outdated definition of a 'de facto partner'. Under the current legislation any de facto partner must have been living with the deceased worker for at least two years immediately prior to death in order to qualify for compensation. This inequitable and discriminatory requirement was most recently highlighted in 2015 when a dependent partner of a construction worker tragically killed was denied compensation having fallen just short of the two year period. This was despite having clear evidence of being in a long term, committed relationship. A de facto partner will have the meaning given in the *Interpretation Act 1984* which is adopted in most statutes in Western Australia. The arbitrary two year period will no longer apply.

Fourthly, the Bill will provide greater clarity and support for claimants seeking compensation. Workers compensation insurers and self insurers will be expected to assess claims quickly and a fast track process to a WorkCover WA arbitrator will ensure orders for compensation are expedited. WorkCover WA will also provide guidelines and support to family members in the claim process.

By introducing this Bill the McGowan Labor Government will see dependent family members of workers killed on the job receive fair and reasonable compensation, which is prioritised and expedited.

Pursuant to Standing Order 126(1), I advise that this Bill is not a uniform legislation Bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the Government of the State is a party. Nor does this Bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the Commonwealth.

I commend the Bill to the House and table an Explanatory Memorandum.