

House of Representatives
Supplementary Order Paper

Tuesday, 23 February 2010

**Injury Prevention, Rehabilitation, and
Compensation Amendment Bill**

Proposed amendments

Hon Dr Nick Smith, in Committee, to move the following amendments:

Clause 1

To omit “Injury Prevention, Rehabilitation, and Compensation Amendment Act **2009**” (lines 2 and 3 on page 4) and substitute “Accident Compensation Amendment Act **2010**”.

Clause 3

To insert after “amends” (line 17 on page 4) “the Act that was previously called”.

New clauses 3A and 3B

To insert the following clauses after the Part 1 heading (after line 20 on page 4):

3A Title repealed

The Title is repealed.

3B Name of principal Act changed

- (1) On and from the commencement of this section,—
 - (a) the principal Act is called the **Accident Compensation Act 2001**; and
 - (b) every reference to the principal Act in any enactment, agreement, deed, instrument, application, notice, or other document must, unless the context otherwise requires, be read as a reference to the **Accident Compensation Act 2001**.
- (2) Section 1 is consequentially amended by omitting “Injury Prevention, Rehabilitation, and Compensation” and substituting “Accident Compensation”.

- (3) Section 21A(4)(c) is consequentially amended by omitting “the Injury Prevention, Rehabilitation, and Compensation Act 2001” and substituting “this Act”.

Clause 4

To add the following subclause (after line 27 on page 4):

- (3) Section 6(1) is amended by inserting the following definitions in their appropriate alphabetical order:
- “**moped** has the meaning given to it in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986
- “**motor cycle** has the meaning given to it in section 2(1) of the Transport (Vehicle and Driver Registration and Licensing) Act 1986
- “**Motorcycle Safety levy** means the levy payable under **section 214(3)**”.

Clause 13

New section 167(3)(e): to omit “**Injury Prevention, Rehabilitation, and Compensation Amendment Act 2009**” (lines 23 to 25 on page 9) and substitute “**Accident Compensation Amendment Act 2010**”.

New section 167(4): to omit this subsection (lines 31 to 34 on page 9) and substitute the following subsections:

- “(4) Regulations made under this Act may prescribe, in relation to a prescribed period, a portion of the levies payable under sections 168, 168A, 168B, and 211 to provide for or, to the extent that it is necessary, to provide separately for,—
- “(a) the purposes of **subsection (3)(a) to (d) and (f) to (h)**:
- “(b) the purposes of **subsection (3)(e), (f), and (h)** and the purpose specified in **section 169AA(1)(a)**.
- “(5) Those regulations may also relate to the same or different prescribed periods.

Clause 14

To insert the following subclause as *subclause (1)* (after line 35 on page 9):

- (1) Section 169(1) is amended by omitting “for that period” in each place where it appears.

Clause 15

New section 169AA(4)(b): to insert after “represents,” (line 18 on page 11) “among other things,”.

Clause 21

Subclause (1): to omit this subclause (line 10 on page 13) and substitute the following subclauses:

- (1) Section 213 is amended by repealing subsection (1) and substituting the following subsection:
“(1) The purpose of the Motor Vehicle Account is to—
“(a) finance entitlements provided under this Act in respect of motor vehicle injuries; and
“(b) finance the cost of programmes to improve the safety of moped and motor cycle riders from the levy referred to in **subsection (2)(d)**.”
- (1A) Section 213(2) is amended by repealing paragraph (d) and substituting the following paragraph:
“(d) the prescribed Motorcycle Safety levy; and”.

Subclause (3): to omit this subclause (lines 16 to 20 on page 13) and substitute the following subclause:

- (3) Section 213 is amended by repealing subsection (6) and substituting the following subsections:
“(6) To avoid doubt,—
“(a) **subsection (1)(b)** does not limit or affect section 263; and
“(b) section 263 (except section 263(3)(b)) applies to the programmes referred to in **subsection (1)(b)** as if the references to measures in section 263 were references to the programmes.
- “(7) Regulations made under this Act may prescribe, in relation to a prescribed period, a portion of the levies (except the Motorcycle Safety levy) to provide for or, to the extent that it is necessary, to provide separately for,—
“(a) the purposes of subsection (5)(a), (b), (c), and (d);
“(b) the purposes of **subsection (5)(ba)**, (c), and (d) and the purpose specified in **section 215(1)(a)**.”

Clause 22

To omit this clause (lines 21 and 22 on page 13) and substitute the following clause:

22 Rate of levies

Section 214 is amended by repealing subsection (3) and substituting the following subsections:

- “(3) A registered owner of a motor vehicle that is a moped or motor cycle must pay, in accordance with this Act and regulations made under it, the prescribed Motorcycle Safety levy.
- “(3A) **Subsection (3)** does not limit or affect subsection (1).”

**Proposed amendments to
Injury Prevention, Rehabilitation, and Compensation
Amendment Bill**

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Clause 23

New section 215: to insert the following subsection after *subsection (1)* (after line 31 on page 13):

“(1A) **Subsection (1)** does not apply to the Motorcycle Safety levy.

New section 215(4)(b): to insert after “represents,” (line 9 on page 14) “among other things,”.

Clause 25

To omit this clause (lines 27 and 28 on page 14) and substitute the following clause:

25 Collection of levies

Section 217 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The Motorcycle Safety levy is payable in the prescribed manner.”

Clause 26

Subclause (3): to omit this subclause (lines 1 to 5 on page 15) and substitute the following subclause:

(3) Section 218 is amended by repealing subsection (5) and substituting the following subsection:

“(5) Regulations made under this Act may prescribe, in relation to a prescribed period, a portion of the levies to provide for or, to the extent that it is necessary, to provide separately for,—

“(a) the purposes of subsection (4)(a) to (e), (f), and (g):

“(b) the purposes of **subsection (4)(ea)**, (f), and (g) and the purpose specified in **section 220A(1)(a)**.”

Clause 29

New section 220A(4)(b): to insert after “represents,” (line 29 on page 15) “among other things,”.

Clause 43

Subclause (5): to omit this subclause (lines 23 and 24 on page 20) and substitute the following subclause:

(5) Section 329 is amended by repealing paragraph (l) and substituting the following paragraph:

“(l) establishing a system for differential levies, for the purposes of the Motor Vehicle Account, for categories referred to in—

“(i) section 216(1); or

“(ii) **section 216(2)**.”

Subclause (6): to omit this subclause (lines 25 to 35 on page 20) and substitute the following subclause:

(6) Section 329 is amended by repealing paragraph (m) and substituting the following paragraphs:

- “(m) setting, in relation to a prescribed period, a portion of the Work Account, the Motor Vehicle Account, or the Earners’ Account that is necessary to achieve,—
 - “(i) in the case of the Work Account, the purpose specified in **section 169AA(1)(a)**; and
 - “(ii) in the case of the Motor Vehicle Account, the purpose specified in **section 215(1)(a)**; and
 - “(iii) in the case of the Earners’ Account, the purpose specified in **section 220A(1)(a)**;
- “(ma) prescribing the manner of payment of the Motorcycle Safety levy for the purposes of **section 217(3)**.”.

New clause 43A

To insert the following clause after *clause 43* (after line 8 on page 21):

43A Consultation requirements for regulations relating to classifications, risk rating, or treatment injury

Section 330 is amended by omitting “section 329(f) or (g) or (l) or (m)” and substituting “section 329(f) or (g) or **(l)(i) or (ma)**”.

Clause 48

To insert after “the Motor Vehicle Account” (line 27 on page 22) “(including the Motorcycle Safety levy)”.

Clause 51

To add the following subclause as *subclause (2)* (after line 27 on page 23):

- (2) To avoid doubt, despite the amendment of section 122 of the principal Act by **section 11** of this Act, section 122 of the principal Act (as it read immediately before the commencement of this section) continues to apply to a claimant who, before the commencement of this section, suffered a personal injury in the circumstances described in section 122 (as it so read).

Clause 56

To omit this clause (lines 8 to 14 on page 25) and substitute the following clause:

56 Calculations of weekly compensation for loss of potential earning capacity

- (1) This section applies to—
 - (a) a claimant who is incapacitated before the commencement of this section, but who is not entitled to weekly compensation for loss of potential earning capacity immediately before that commencement;
 - (b) a claimant who is incapacitated only on or after the commencement of this section.

- (2) To avoid doubt, clause 47 of Schedule 1 of the principal Act (as amended by this Act) applies to the calculation of weekly compensation for loss of potential earning capacity in respect of a claimant to whom this section applies.

Clause 57

Subclause (1): to omit this subclause (lines 17 to 19 on page 25) and substitute the following subclause:

- (1) This section applies to a claimant who is incapacitated before the commencement of this section and who is entitled to weekly compensation for loss of potential earning capacity immediately before that commencement.

Explanatory note

This Supplementary Order Paper amends the Accident Compensation Amendment Bill to—

- change the title of the principal Act to the **Accident Compensation Act 2001**; and
- make consequential changes to the principal Act as a result of the change in its title; and
- authorise a separate levy (to be called the Motorcycle Safety levy) to be imposed for the purpose of funding programmes to improve the safety of moped and motorcycle riders; and
- make technical drafting changes to the transitional and other provisions of the Bill to better achieve the Bill's policy intention.

The Motorcycle Safety levy will be payable by the registered owners of mopeds and motorcycles. It will form part of the existing Motor Vehicle Account, but the funds collected from the levy will be ring-fenced from the other funds in the Motor Vehicle Account and will be used exclusively for moped and motorcycle safety programmes. The existing criteria for promoting measures that reduce the incidence and severity of personal injury that are set out in section 263 of the principal Act will apply to the moped and motorcycle safety programmes.