



Speech by

**Grace Grace**

**MEMBER FOR BRISBANE CENTRAL**

Hansard Wednesday, 10 March 2010

---

## **CIVIL LIABILITY AND OTHER LEGISLATION AMENDMENT BILL**

**Ms GRACE** (Brisbane Central—ALP) (4.33 pm): I rise to speak in support of the Civil Liability and Other Legislation Amendment Bill 2009. This bill seeks to amend the following acts and regulations: Civil Liability Act 2003, Civil Liability Regulation 2003, Law Reform Act 1995, Limitation of Actions Act 1974, Motor Accident Insurance Act 1994, Motor Accident Insurance Regulation 2004, Personal Injuries Proceedings Act 2002 and Personal Injuries Proceedings Regulation 2002. The Civil Liability and Other Legislation Amendment Bill 2009 will improve the civil liability and personal injury regime in Queensland, and I support it fully. Many of the amendments contained in the bill are in direct response to stakeholder feedback.

The bill includes amendments to rebase and facilitate the future indexation of monetary amounts in the Civil Liability Act 2003, the Motor Accident Insurance Act 1994 and the Personal Injuries Proceedings Act 2002, better known as PIPA, including the legal cost thresholds and the amounts used for calculation of general damages. It ensures that a de facto partner of an injured person can claim damages for loss of consortium. Loss of consortium refers to a loss of things such as housework, comfort, society, assistance and companionship. The bill removes a requirement in the PIPA that parties must sign a certificate of readiness for trial prior to the compulsory conference. Parties will still be required to sign a certificate of readiness for the conference. The bill streamlines the process under the PIPA if parties agree to the urgent commencement of proceedings. It abolishes the statutory limitation period for personal injury claims involving a dust related condition. It also partially reinstates damages for loss of a claimant's capacity to provide gratuitous domestic services, also known as Sullivan v Gordon damages.

The bill also includes the following minor amendments—amendments to the definition of 'community organisation' in section 38 of the CLA to ensure that a volunteer undertaking community work for a parents and citizens association is protected from liability, and an amendment to clarify the protection from liability provided to volunteers by section 43 of the CLA.

The amendments to index monetary amounts and reinstate Sullivan v Gordon damages will impact on compulsory third-party insurance premiums and liability premiums. The estimated impact on compulsory third-party insurance premiums, though, is expected to be minimal. The relevant amounts have not been indexed since commencement, so they are somewhat overdue. The yearly indexation of monetary amounts will ensure that injured Queenslanders receive compensation that is fair and that reflects current standards of living. As a result of the amendments from 1 July 2010, the cap on general damages will increase from \$250,000 to \$294,500—an increase of approximately 17.8 per cent.

The amendments will also partially reinstate Sullivan v Gordon damages for seriously injured persons. Sullivan v Gordon damages compensate an injured person for the loss of their capacity to provide gratuitous domestic services to others. An example of a person who might be entitled to Sullivan v Gordon damages is a person seriously injured in a motor vehicle accident who can no longer care for his legally blind wife. There are certain restrictions on when these damages will be awarded by a court. These include: the recipient of the services is a member of the injured person's household; the services were necessary; the recipient would be unable to perform the services themselves; the claimant would have

provided the services for at least six hours a week for at least six months; and the need for the services is reasonable.

One of the significant amendments in this bill—and one that I particularly welcome—is the abolition of the statutory limitation for dust related conditions. Dust related conditions are defined in the Civil Liability Act 2002 to include conditions such as asbestosis, mesothelioma and silicosis. The removal of the statutory limitation for dust related conditions will mean that a person suffering from this kind of condition will no longer need to make an application to the court to extend the limitation period. The removal of this hurdle will deliver significant benefits to those suffering from very debilitating dust related conditions by improving their access to justice and reducing the cost and stress associated with pursuing a claim. I note that earlier in the House the member for Rockhampton referred to people suffering from dust related conditions. It truly is a very debilitating injury that comes on very slowly over a long number of years, and often when it hits it hits people very badly.

There are some procedural amendments contained in the bill as well. The requirement for a certificate of readiness for trial to be filed before a compulsory conference has been removed. There is also an alternative method for commencing urgent proceedings. Previously, leave of the court was required. This amendment provides that urgent proceedings can be commenced by the agreement of the parties. However, the proceedings are stayed until the precourt procedures have been complied with. This ensures that neither party will be disadvantaged.

The Attorney has circulated a number of amendments that he will move during the consideration in detail stage. I will turn to a couple of those. Under section 39 of the Civil Liability Act 2003, a person undertaking volunteer work for a community organisation is entitled to receive protection from liability in certain circumstances. The first amendment in committee will allow an entity to be prescribed by regulation as a community organisation for the purposes of the act. This will provide the government with greater flexibility to respond to requests received from organisations that wish to be captured by section 39 but which are currently disqualified due to their organisational status. The factors that would be taken into account when deciding whether an organisation should be prescribed by regulation as a community organisation include, of course, the organisation's legal status and structure and whether it has appropriate insurance in place. Each case would be decided on its own merits, but the bill will enable for that decision now to be taken.

The second amendment in committee will replace a transitional provision inserted by clause 15 of the bill with a new transitional provision. The purpose of the new transitional provision is to ensure that the amendment in the bill to partially reinstate *Sullivan v Gordon* damages has retrospective operation in the case particularly of dust related claims that are not otherwise excluded from the Civil Liability Act 2003. I strongly support the retrospective operation of this amendment. It is justified given that most dust related claims arise from exposure to asbestos that occurred many years in the past.

This bill will, as I have said, improve the civil liability and personal injury regime in Queensland. It makes access to justice and compensation easier and more equitable for injured Queenslanders. Most of the amendments contained in the bill are as a result of stakeholder representations. I welcome many of the amendments. I commend the bill to the House.