

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, 22 June 1993

ACCIDENT REHABILITATION AND COMPENSATION INSURANCE AMENDMENT
BILL (NO. 3)

Proposed Amendments

Rt. Hon. W. F. BIRCH, in Committee, to move the following amendments:

Clause 19: To omit from the proposed section 52 (2) the word “irrevocable” (page 15, line 20).

Clause 21: To insert, before the proposed new subsection (5) of section 58 (page 17), the following subsection:

“(4A) Except as provided in this section, a person who has attained the national superannuation qualification age shall not be entitled to any compensation under this section unless the person makes an election not to receive national superannuation, after attaining national superannuation qualification age, while the compensation is payable.

To omit from the proposed section 58 (5) the word “irrevocable” (page 17, line 33).

To insert, after the proposed section 58 (5) (page 17), the following subsection:

“(5A) Where a person first becomes entitled to compensation under this section 12 months or more before attaining national superannuation qualification age, that person shall not be disentitled on account of age to that compensation, so long as the person elects not to receive national superannuation after attaining national superannuation qualification age, while the compensation is payable.

To omit from subsections (6), (7), and (8) the expression “subsection (5)”, and substitute the expression “subsection (4A) or subsection (5) or subsection (5A)”.

Clause 22: To omit from the proposed subsection (4) of section 60 the word “irrevocable” (page 20, line 7).

Clause 37: To omit this clause (page 27, lines 14 to 39), and substitute the following clause:

37. Cessation of earnings related compensation on account of age—The principal Act is hereby amended by repealing section 142, and substituting the following section:

“142. (1) Subject to this section, where any person is receiving payments by virtue of section 138 of this Act, that compensation shall not cease to be payable, on account of age, until the close of the 30th day of June 1997, or at the age at which it would have ceased to be payable under the Accident Compensation Act 1972 or the Accident Compensation Act 1982, whichever first occurs.

“(2) No compensation shall be payable under this section to any person—

“(a) After the 30th day of June 1994, where the person attains the national superannuation qualification age before the 1st day of July 1993, unless that person has made an election not to receive national superannuation in respect of any period commencing after the 30th day of June 1994; or

“(b) Where that person attains the national superannuation qualification age on or after the 1st day of July 1993, unless that person has made an election not to receive national superannuation in respect of any period commencing after the expiry of 12 months from the date of attaining the national superannuation qualification age.

“(3) Any election under subsection (2) of this section must be made—

“(a) Before the 1st day of October 1993; or

“(b) Within 13 months after the commencement of the incapacity in respect of which the compensation is payable; or

“(c) At any time not later than 1 month before the attainment by the person of the national superannuation qualification age—

whichever last occurs.

“(4) Any election under subsection (2) of this section may be exercised or reversed outside the period specified in subsection (3) of this section only if the Corporation is satisfied that the circumstances of the person have changed significantly since the expiry of that period.

“(5) Nothing in subsection (2) of this section shall entitle any person to compensation under this section in respect of any period for which that person is not otherwise entitled by virtue of this Act.”

Clause 39: To insert, after the proposed subsection (4B) (page 29), the following subsections:

“(4c) Notwithstanding subsections (1) and (2) of this section, where any person was receiving compensation under section 121 of the Accident Compensation Act 1972 or section 80 of the Accident Compensation Act 1982 in respect of child care (where the child care was previously provided on a regular basis by a deceased person for a family or household of which the deceased person was a member), immediately before the 1st day of July 1992, those sections shall continue to apply in respect of that person, in relation to child care but not other loss of quantifiable service, as if those sections had not been

repealed; and the entitlements in respect of the person may be reassessed from time to time under those sections.

“(4D) Where **subsection (4c)** of this section applies, the person concerned—

“(a) Shall not be entitled to receive compensation in respect of child care under regulations made under this Act; but

“(b) Shall be entitled, not more than once in any 12-month period, to elect to be assessed for entitlement for compensation for child care under regulations made under this Act.

“(4E) Following the assessment referred to in **subsection (4D) (b)** of this section, the person concerned may irrevocably elect—

“(a) That **subsection (4c)** of this section shall no longer apply in respect of the person; and

“(b) That the entitlements of the person to compensation for child care shall thereafter be determined in accordance with regulations made under this Act.

To omit from the proposed subsection (5) of section 149 the expression “**subsections (3) and (4)**” (page 29, line 23), and substitute the expression “**subsections (3), (4), and (4c)**”.

EXPLANATORY NOTE

Clause 19: The amendment corrects a printing error to correctly provide for an amendment made by the Labour Committee. Similar amendments are made to *clauses 21 and 22*.

Clause 21: The amendments ensure that weekly compensation paid to a surviving spouse of a person who died as a result of personal injury covered by the Act can be paid in addition to national superannuation for 12 months from national superannuation qualification age or becoming entitled to weekly compensation, whichever is later. For any subsequent period, the person can elect to receive either national superannuation or weekly compensation, but not both.

Clause 22: See *clause 19* above.

Clause 37: The new section 142 ensures that transitional claimants receiving weekly compensation at 1 July 1992 will be entitled to receive both weekly compensation and national superannuation for a period of 12 months irrespective of the date of attaining the superannuation qualification age. For subsequent periods, the person must elect to receive either weekly compensation or national superannuation, but not both.

Clause 39: The amendments relate to payments made in respect of child care previously provided by a deceased person and extends payments made at 1 July 1992 on the same basis as for attendant care and home help, but without the monetary limits which apply to those latter categories of entitlement.