**COUNTRY FIRES ACT AMENDMENT BILL (No. 3) 1986**

**Legislative Assembly, 20 November 1986, pages 2190-1**

Second reading

**The Hon. D.J. HOPGOOD (Minister of Emergency Services)** obtained leave and introduced a Bill for an Act to amend the Country Fires Act 1976. Read a first time.

The Hon. D.J. HOPGOOD: I move: That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in Hansard without my reading it. Leave granted.

Explanation of Bill

Compensation for volunteer firefighters and their dependants for death or injury arising in the course of their volunteer activities is a matter which has been in need of reform for some time. The former Deputy Premier and Minister of Emergency Services (the Hon. Jack Wright) initiated proposals for reform which were included in proposed legislation which came before this House during the last session in the form of the Workers Rehabilitation and Compensation Bill. Unfortunately those proposals did not receive the support of the Opposition at that time and the proposals have temporarily stalled in another place. As a consequence the reform of compensation provisions relating to volunteers has been unacceptably delayed. The Government has therefore decided not to await the major reforms of the general compensation law but to improve benefits provided under the Country Fires Act. The Workers Compensation Act 1971 will also continue to apply to volunteers generally.

The Bill significantly modifies the compensation provisions of the principal Act. Under the existing provisions a volunteer’s actual income cannot be taken into account when determining compensation. In a number of cases this has resulted in some financial disadvantage to injured volunteers and their families. Under the proposals included in this Bill compensation for volunteers who are employed will be determined by reference to their actual earnings. With respect to self employed or unemployed volunteers compensation will be determined by reference to notional employment in the field in which they are skilled or able to be employed. The Bill also provides a ceiling to compensation benefits consistent with provisions previously considered by this House under the Workers Rehabilitation and Compensation Bill. These changes will significantly reduce the potential for anomalies which exists under current provisions.

For the purpose of determining dependency and the extent of dependency of the spouse of a deceased firefighter the Bill excludes income derived by the spouse from partnership arrangements with the deceased to the extent that that income is attributable to the deceased’s work on behalf of the partnership. The Government and the Country Fire Services Board are most anxious to have these provisions in place before the height of the fire season. I commend the Bill to the House.

Clause 1 is formal.

Clause 2 provides that the measure will come into operation on a day to be fixed by proclamation.

Clause 3 substitutes section 27 of the Act which deals with the obligation of the Country Fires Services Board to pay compensation in respect of injury to or death of fire control officers, fire party leaders and members of CFS fire brigades while serving in that capacity. The proposal extends this obligation to members of the public who assist in firefighting or dealing with an emergency at the request or with the approval of a person apparently in command pursuant to the principal Act at the fire or emergency. Such persons may presently receive compensation at the discretion of the trustees under the Volunteer Fire Fighters Fund Act 1949. As in the existing section the proposal provides that the Workers Compensation Act 1971 applies subject to certain qualifications. The qualifications relating to the determination of whether and to what extent a volunteer firefighter is incapacitated for work are not substantively altered.

The new section provides that the average weekly earnings of a volunteer firefighter must be determined by reference to, if the volunteer was self-employed, the rate of pay that the volunteer would have received if he or she had been doing the same work but as an employee or, if the volunteer was unemployed, the rate of pay that the volunteer would have received in employment for which he or she was reasonably fitted. Any award or industrial agreement applicable to that class or grade of employment must be taken into account. The existing section provides that average weekly earnings of a volunteer shall be taken to be the prescribed percentage of the amount last published by the Commonwealth Statistician as an estimate of average weekly earnings of adult males working ordinary hours in full-time employment in this State.

A further qualification is added by the new section. Where a claimant and a deceased volunteer firefighter were in partnership prior to the date of the volunteer’s death, the claimant may establish dependency on the deceased despite receiving income from the partnership. To the extent that the income is attributable to the work of the deceased on behalf of the partnership it will be treated as an allowance made by the deceased, out of the deceased’s own income, for the maintenance of the claimant. The new section also removes the obligation on the Country Fire Services Board to call for public tenders before entering contracts of insurance relating to workers compensation for volunteer firefighters.

The Hon. B.C. EASTICK secured the adjournment of the debate.