



# Legislative Assembly

## Motor Accidents Compensation

### Amendment (Terrorism) Bill Hansard

#### Extract

27/02/2002

#### Second Reading

**Mr YEADON** (Granville—Minister for Information Technology, Minister for Energy, Minister for Forestry, and Minister for Western Sydney) [9.14 p.m.]: I move:

That this bill be now read a second time.

In a ministerial statement in the other place on 11 December last year the Special Minister of State announced that the Government would introduce legislation in this session of Parliament to amend the Motor Accidents Scheme to respond to changes in the international reinsurance market. As members would be aware from recent media coverage, international reinsurers have decided to withdraw liability cover for terrorist-related insurance losses following the tragic terrorist attacks in the United States of America on 11 September 2001. The withdrawal by reinsurers of cover for terrorist-related losses has wide implications across the general insurance sector in Australia. The international reinsurers action also has particular implications for the New South Wales Compulsory Third Party [CTP] Scheme. This is because New South Wales licensed CTP insurers are required to provide unlimited liability cover for death or injury resulting from a motor vehicle accident.

The statutory third party policy prescribed by the Motor Accidents Compensation Act 1999 requires a CTP insurer to indemnify the owner and/or driver of a vehicle for death or injury which is a result of and is caused—whilst the vehicle is being driven, involved in a collision or near miss—by the vehicle running out of control or by a defect in the vehicle during its use or operation. Advice provided to the New South Wales Motor Accidents Authority by senior counsel confirms that the legislation is not only confined to negligent actions involving a motor vehicle, but also covers intentional injury—for example, such as could result from a terrorist action using a motor vehicle as a weapon.

All New South Wales CTP insurers reinsure against losses. As a result of international reinsurers' withdrawal of cover for terrorist-related losses, CTP insurers are exposed to a potential liability that cannot be covered by reinsurance. The action of reinsurers has serious potential to impact on the affordability and viability of the New South Wales green slip scheme. The Motor Accidents Compensation Amendment (Terrorism) Bill excludes all liability arising from a terrorist act involving a motor vehicle from the CTP scheme. The Government is concerned to ensure that the scope of this amendment is limited strictly to only those circumstances that are clearly attributable to a national or international terrorist attack.

The terrorist exclusion introduced by the bill will apply only to a circumstance that could, considering the nature and context of the act, be reasonably characterised as an act of terrorism. The ministerial statement also indicated that the proposed amendment would operate retrospectively from 1 January 2002. The bill has been drafted accordingly. The approach taken by the bill is to exclude liability for any terrorist act occurring after 1 January 2002 and before 1 January 2003. Once the legislation comes into force a third party policy, whenever issued, will not extend to cover this liability during the period of the exclusion. The Queensland Parliament has enacted a similar change to the Queensland CTP scheme, which is underwritten by private insurers, as is the New South Wales scheme. This measure is temporary and is put in place for a limited period only to address the immediate on-going viability of the New South Wales CTP scheme. The bill's exclusion of terrorist acts will apply only until 1 January 2003 or the proclamation of an earlier date.

The inclusion of the proclamation provision is to provide a mechanism to terminate the exclusion clause before the date otherwise provided by the bill should any viable alternative approach emerge. It is intended that the proclamation provision would be utilised only if alternative arrangements were in place. Clearly, there would be consultation with CTP insurers before the Government took this action. This will allow for the position to be reassessed in the light of any national arrangements being put in place or any change in the availability of reinsurance cover for such incidents. As I indicated earlier, the international reinsurance issue affects the general insurance sector across Australia and is not limited only to the New South Wales CTP scheme. Despite these significant national implications, the Federal Government has not yet announced any intended action. The New South Wales Government calls on the Federal Government to work with the insurance industry to find an effective solution to this problem. I commend the bill to the House.