Speech by

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MEMBER FOR CAIRNS

Hansard 14 April 1999

WORKCOVER QUEENSLAND AMENDMENT BILL

Ms BOYLE (Cairns—ALP) (12.40 p.m.): I am very pleased to rise following the long and out-of-balance—if not unbalanced— presentation of the member for Clayfield. Hopefully, some balance will be brought back into the debate in relation to an issue that was not mentioned in the 60-minute speech by the member for Clayfield, namely, people in pain. That is what this Bill is about. It is not about business and premiums and numbers and dollars. It is about protecting Queenslanders when they have been injured, when their lives are in chaos, when their very employment and their ability to be employed are threatened. That is really what this is about. Surely the Government's top priority should always be to look after the people whom we represent. And yes, business matters; of course business matters. That is why this is indeed balanced legislation. But business does come second, not first.

The WorkCover Queensland Amendment Bill 1999 is fundamental to the Beattie Government's long-term strategy of reform. It is part of a well-planned and structured process to bring fairness and balance, consideration and—dare I say it—caring back into the Queensland workers compensation system. The reforms proposed in this Bill are already taking shape. By 1 July 1999, we will have taken the first important steps towards change—change towards fairness, change towards balance. We will have redefined "injury". We will have abolished the surcharge of 10% of net premium for employers. We will have strengthened the licensing criteria for all new self-insurers' applications. One year on from these important reforms, 1 July 2000, we will be marching ahead. We will have redefined "worker". We will have introduced new premium compliance measures for the building and construction industry. On 1 July 2000, we will be a long way down the road, but we will not have reached its end. There will be a long process of monitoring and evaluation to follow. Let us consider, though, where we are to date.

As of March this year, changes were introduced to strengthen the licensing criteria for self-insurers to include both prudential and performance requirements. The Government acknowledges that companies which have already self-insured have incurred significant establishment costs and, therefore, cannot justify reversing self-insurance. However, it was felt that additional criteria were necessary to ensure that self-insurers and their workers are better protected. From 3 March 1999, self-insurers have to comply with new criteria on renewal of their self-insurance licence or on application for a new licence.

On 3 March 1999, the option for companies to self-rate was abolished. Previously, companies which used the option to self-rate and which had a poor past claims history could effectively minimise the effect of their past record from their premium calculation. That was neither fair nor right. The system also allowed companies to opt in and out of the system at will to minimise premiums payable. That was not good business practice. Also, it was neither fair nor reasonable. This meant that other employers would have to pay through cross-subsidisation within the central scheme. Its abolition, therefore, has restored equity for employers as well as allowing us, as a Government, to ensure that employers who do the wrong thing face the music, as it were. To ensure that self-raters are not just dropped into a new system, however, transitional provisions are included in this Bill. These will be refined by an amendment in Committee and will provide self-raters with some leeway to help them get their house in order to self-insure, if they want to.

In less than three months' time, we will see the next stage of changes come to life. The definition of "injury" will change, so workers will be compensated if the injury arises out of, or in the course of, employment if the employment is—these are very important words—a "significant contributing factor". This means that the current strong link between injury and employment will still

need to exist—of course it will—before an injury is compensatable. It is proposed that this will be the case for all injuries occurring on or after 1 July this year.

The current Queensland definition, which requires that employment must be "the major significant factor causing the injury", is the most restrictive in Australia. It is a cruelty to workers where, in other circumstances, significant factors causing the injury at work are relevant but where they have not been fairly treated by that definition because it was not the major significant factor. That definition is the most restrictive in Australia, and that is not a record of which Queensland and the former Minister should be proud—not at all. It is restrictive when we are talking about injured workers. That is not a proud record. It has proven to be harsh and cruel, excluding some workers from receiving the compensation to which they should be entitled.

This has been particularly the case for work-related aggravations. Many people in Queensland may not be able to work in their former jobs due to some injuries sustained, whether at work or otherwise through life experience, and yet they still wish to work; they wish to contribute to our society, as well as to earn the money that they need for their lifestyle and to join in the true spirit of a work-based society. And yet, because they have suffered an injury, the limitations upon them are real. It is reasonable, however, that they be protected, too, in a work situation so that, where a previous injury is aggravated, their circumstance will also be considered. The definition of "injury" will, therefore, also clarify that an aggravation of a pre-existing injury, disease or medical condition, regardless of whether or not the original injury was work related, will be compensatable but, of course, to the extent of the aggravation only. I believe that these changes, however, are changes that are going to be well received—very well received—by the workers of Queensland.

I understand that some employers are concerned. They are concerned about the dollars and about the potential increases in their premiums as the years go by. As a political party, and as part of our ideology, and certainly as part of the action of the Beattie Government, we have a real concern—a primary concern—that workers get a fair deal. The important thing that we need to keep in mind, however, is that good people—good workers—who have done the right thing, who have been working hard and who, through no fault of their own, have been injured at work have been turned down for what were really matters of reasonable compensation.

Many times in the electorate of Cairns I have heard of cases in which workers cannot believe that they are not entitled to assistance. Unfortunately, many of these workers have interpreted their inability to claim under the present system—the coalition Government's system—as unfair treatment by the employees at WorkCover. They have not understood that it has not been a matter of the discretion of the employees of WorkCover. So, in my office, too frequently the blame on the part of those complaining about WorkCover has been directed towards the staff of WorkCover. This has not been entirely fair.

At the same time, I believe that there has been an attitude that has permeated the WorkCover system, thanks to the attitude of the coalition Government and its legislation, that workers who complain—who dare to ask for some kind of cover due to an injury—are, first and foremost, treated with suspicion; suspicion that they are trouble making, suspicion that they are exaggerating, or maybe even suspicion that they are making up their injury and that it is not real. It has been an uphill battle for some legitimately injured workers to prove their injuries to be real. That type of system is wrong. It is out of balance. It is inappropriate. It is putting dollars ahead of people. And that is why, of course, the changes that we are making are properly called restoring the balance.

These changes are such that I look forward to the days when people in Cairns and elsewhere in Queensland can go into a WorkCover office or ring up on the telephone and be treated equitably and fairly and with the expectation of honesty rather than the expectation of dishonesty. This is not to say that there are not some people out there who have—and some others who will in the future—attempted to exaggerate their injuries and attempted to make claims that are not fully legitimate. However, they are—and all honourable members of this House should keep this in mind—a tiny minority. They are throughout society looking for a free ride. Yes, they exist, but they are a tiny minority. The great majority of Queensland workers who need to ring or call on WorkCover should be treated as the good Queenslanders that they are. They must have the expectation that the information they are reporting and the injury that they are suffering are legitimate. They should be treated fairly and with full access to the system of protection that the Government provides.

Compensation for injuries incurred whilst travelling to and from a worker's home will be maintained but the requirement to take the shortest convenient route will be removed. The requirement that excludes compensation for those who voluntarily subject themselves to risk of injury is removed. Based on the recommendation of the current Queensland WorkCover Board, the current surcharge of 10% of net premium for employers under the experience based rating system will be removed from 1 July 1999. This will ease the burden on employers, particularly in the light of the increases in premiums which some employers will face due to the transition to full experience based rating introduced by the coalition Government.

By the end of this year we will have clear evidence of the Government's long-term strategy of reform. But the key date is 1 July 2000. From that date, all people working under a contract of service, regardless of taxpaying status, will be eligible for workers' compensation. This is a major step forward. Workers paying tax under the prescribed payment system will be included in the definition, provided that they do work under a contract of service. Under the current system, those paying under the PPS system must seek their own personal injury insurance at their own cost.

To complement the amendments to both the definitions of "worker" and "injury" the Government will request WorkCover to undertake comprehensive staff training on how to fairly interpret the legislation and apply it consistently. This is good news and will be well received by the employees of WorkCover. Many WorkCover employees in the far north of the State have felt the stress of working under the present legislation. In my view, the attitude of management towards employees has been unfair. The employees have been treated as an expendable resource. Their caseloads have been heavy. In approaching management they have found a lack of receptivity. They have had problems in discussing the difficult circumstances they have in their case files. There has also been a lack of receptivity to consideration of the employees' own employment conditions and management problems. In many instances employees of WorkCover have not felt valued. They have not found their work challenging and important. I believe this has occurred because of the way the system has worked from the top down.

One might say that this is not a matter for legislation by the Parliament. That is so. It is a difficult matter to manage with legislation. It is a matter of management of the human resources of the organisation. However, underlying that management is the organisational culture that stems from the legislation of the previous Government—a culture where the attitudes at the top have been negative, mean-spirited, biased towards business and biased against the employees. At the front line the employees of WorkCover have had to, as it were, wear that difficulty.

There will be training under the new system and the employees will be able to ensure that they are able to work in a better environment. In this way they will be able to look after employers and workers who have difficulties and require the assistance of WorkCover. That will be a welcome change.

I wish to refer to the changes to the definition of "stress". The honourable member for Clayfield quoted some figures to this House about the, as he referred to it, burgeoning growth of stress claims from the early 1990s to the mid 1990s. He implied that this was the fault of the former Labor Government. What nonsense! Stress has become—

Mr Santoro: I didn't blame the Labor Government.

Ms BOYLE: Implied. Stress has become an issue of great social importance. The pattern of changing claims under the heading of stress in WorkCover reflect a much wider set of factors in our society of the nineties. "Stress" is a word that has come into common usage and reflects the difficulties of life in the nineties. These are difficulties that honourable members in this House, no doubt, have experienced themselves in their own work lives as well as in their personal lives. We have stresses from changes in society, changes in work practices and changes in efficiency and effectiveness. We have constant calls for us all to be high-quality employees. There is stress in the expectations of relationships in our marital situations and with our children. People suffer stress from the changes in technology and the pace of life. All of these are factors which contribute to the widespread perception of stress in Queensland.

It is important that we offer better definitions than those contained in the previous legislation. These definitions will assist in determining when a person has a stressed feeling that is not compensatable but which should be compensatable under this legislation. The causal relationship between employment and injury must and will be maintained for stress claims. Stress disorders will remain compensatable if the employer's management action in relation to the worker is considered unreasonable. One of the important elements of the definition concerns the employer's management action and not the perception of the management action. The action itself has to be considered unreasonable.

We are not allowing for a worker, who may be experiencing stress from a number of sources across society, to perceive that it is the manager's fault and therefore be able to claim. There needs to be evidence that the management action was unreasonable. The provision that excludes compensation where the disorder arises out of the worker's expectation or perception of reasonable management action will remain. Expectation or perception are not sufficient; it must be unreasonable management action.

The reforms remove the two requirements of "reasonable person" and "ordinary susceptibility". These are impossible to define. They are so difficult to apply that I am sure all members of this House will welcome the removal of those requirements. The removal of those two provisions is a reasonable balance between providing compensation to workers who genuinely suffer stress disorders and protecting employers from claims that may come from a worker who might not want to accept a fair and

sound management decision. I readily understand that there have been some workers whose performance has been poor and who have found management's expression of concern about that poor performance to be stressful. In such circumstances a claim would not be legitimate.

From 1 July 2000 we will also see the introduction of a new levy-based premium collection process for the building and construction industry. Premium compliance has been a long-standing problem affecting the workers compensation system.

The next phase commences in the year 2001. Overall I say to this House that the approach is financially prudent and nothing short of what is expected from a responsible Government, and from a Labor Government, where fair consideration is given to business and employers, but especially fair consideration must go to the workers of Queensland. I put it to this House that this package is part of a well-planned and structured process to reform the Queensland workers compensation system. It will restore the balance—the balance in terms of reasonable quality of life for all workers, and quality of care in times of trouble. It will restore the balance between employers and business needs and those of workers who are making their contribution as best they are able to the prosperity of Queensland.