



Speech by

Mr N. ROBERTS

MEMBER FOR NUDGEES

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr ROBERTS (Nudgees—ALP) (3.45 p.m.): It is great to be a part of a Government that is getting things done and is willing to do something about putting some fairness and justice back into people's lives. We are doing it here with workers compensation, we will do it with the industrial relations legislation, and we are doing it—in fact, leading the way—in trying to wind back some of the harsher elements of the National Competition Policy. In that respect, over the past two years the coalition screamed but did nothing. As was outlined this morning, this Government is taking some positive steps to address some of the issues arising from those competition policy agreements. This Government has reintroduced the Community Recreational Facilities Program—a great program introduced by the Goss Government, but abolished under the coalition Government. I want to mention what is happening in particular in Zillmere, where we are putting \$1m into that community. That never would have happened under a coalition Government.

This Bill is part of a reform package aimed at restoring equity and balance in the Queensland workers compensation system. Currently, the system is out of balance. There are too many individuals injured at work who are being denied assistance and too many employers who have not been paying their way. This Government believes that the workers compensation system must benefit the entire community. We cannot tolerate a system that discriminates against particular workers or employers or has the hurdles set so high that access to compensation is extremely difficult. I think that all of us in this Chamber over the past couple of years have heard stories from people coming to our offices about workers who have missed out on receiving compensation, in many cases as a result of the very restrictive definition of "injury" that the coalition introduced.

This Government believes that the system must be fair. It must balance the rights of injured workers with the need for having competitive and affordable premiums for employers while maintaining a viable and secure workers compensation system. Unfortunately, the changes made by the previous coalition Government upset that essential balance. The coalition's WorkCover Queensland Act 1996 resulted in significant reductions to the rights of workers to compensation. Under those arrangements, some employers also ended up paying artificially high premiums because many, many other employers, particularly in industries such as construction, were not paying their fair share.

The Government has taken corrective action to restore the balance by proposing a number of strategic reforms which are outlined in this Bill. Firstly, it recognises the need for fair treatment of workers within the system. The current definitions of "injury" and "worker" are the most restrictive in the country and did not provide the balance that is required. The definition of "injury" will change so that workers will be compensated if the injury arises out of or in the course of employment if the employment is a significant contributing factor to the injury. That means that we retain the strong link that is required between injury and employment. In that respect, it is proposed that the new definition will apply to injuries occurring on or after 1 July 1999.

The current definition, which requires that employment must be the major significant factor causing the injury, has proven to be harsh as it excludes many workers receiving the compensation which they deserve. As I have outlined, a number of people who have been affected directly by that particular provision have come to my office and, as the member for Bulimba also outlined, spoken about the hardship that they have experienced as a result of not being given fair access to the compensation system. The Bill will restore the rights of workers, at least in the future. It is unfortunate that we cannot help those who have missed out in the two-year period of the coalition's Act. This has

particularly been the case for work-related aggravations. Therefore, the definition of "injury" will also clarify that the aggravation of a pre-existing injury, disease or medical condition, regardless of whether the original injury was work related or not, will be compensatable to the extent of the aggravation only.

The definition of "worker" will be changed so that all people who work under a contract of service, regardless of their taxpaying status, will also be eligible for workers compensation. To assist the decision makers in determining whether a contract of service exists, guidelines will be developed by the department. For further clarification, a schedule to the Bill will contain provisions that declare certain groups of employers and employees to be covered by the Act.

Under the existing definition of "worker", significant groups of workers, such as those paying tax under the PPS while working under a contract of service, were excluded from compensation. They were required to seek their own personal injury insurance at their own cost. That legislation also lent itself to unscrupulous employers forcing workers into PPS arrangements so that they did not have to pay workers compensation premiums. I have come across some examples of employers in some industries who have gone to extraordinary lengths to create a situation where their workers were not covered by workers compensation legislation. In fact, in one example that I saw recently, a worker was required to pay a 1% levy from their wage to gain an accident cover that was far inferior to the cover that they should have been entitled to under the workers compensation Act. Employers can also be exposed to common law damages for negligence for those workers who have been excluded from coverage. That was not the case prior to the WorkCover Queensland Act as amended by the coalition. The amended definition of "worker" will address those difficulties. The amendment will apply to all injuries occurring on or after 1 July 2000. Similarly, employers' premiums will be assessed on the basis of the revised definition of "worker" after that time.

Other key reforms in the Bill aimed at restoring the rights of injured workers include access to journey claims, which reflects the needs of our contemporary society; a reduction in the time for WorkCover and self-insurers to decide a claim; and an increase in the time for lodgment of an application for review. The Bill addresses inequities relating to premium issues for employers on a number of fronts. The 10% surcharge on employer premiums will be abolished from 1 July 1999. The dropping of the surcharge will ease the burden on employers, particularly in the light of increases in premiums that some employers will face due to the transition to a full experience-based rating introduced by the coalition Government. However, it is important to note that premium rates will not rise as a result of the reforms being introduced here today. They will still be among the lowest in the country. Employers' WorkCover policies will once again protect them against common law damages claims from workers who have been injured at work.

The Bill will abolish self-rating. Self-rating creates an inequity for employers as it provides an opportunity for some employers to lower their premiums at the expense of others. No new self-rating applications will be accepted by WorkCover. Registration for existing self-raters will cease from 30 June 1999. However, an amendment will be moved at the Committee stage to provide for a current self-rater to continue self-rating until 30 June 2000 if the self-rater applies to become a self-insurer by 31 December 1999.

Poor compliance means that some employers are not paying their fair share. In 1997-98, under the current scheme non-compliance with premium payments is estimated to be between \$50m and \$60m. The proposed activity-based premium collection model for the building and construction industry will result in a more level playing field for employers within that industry. This is an Australian first proposal that will be further developed in consultation with that industry.

One of the reasons why this Government will be successful in restoring the balance to the Queensland workers compensation system is the consultation that we have undertaken. On 2 March 1999, the Government released a package of proposed reforms in its position paper, Restoring the Balance. An extensive information campaign and consultation with key stakeholders followed that release. In particular, the Government met representatives from the Queensland Chamber of Commerce and Industry, the Australian Industry Group, the Queensland Bar Association, the Law Society, the Self-Insurers Association, the Labor Lawyers Association, the ACTU, the AWU, the shop assistants union and others as part of the preparation of the Bill. Some additional changes were made as a result of that consultation. The WorkCover actuary also briefed stakeholders on the impact of the reforms on 31 March. The consultation will continue with key stakeholders during the drafting of the new regulations.

The Bill goes a long way towards addressing the inequities of the current system. The Bill will benefit both workers and employers, and it provides protection to which they should be entitled. It will give Queensland the best and fairest workers compensation system in the country.
