



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Tuesday, 10 May 2011

WORK HEALTH AND SAFETY BILL

Message from Governor



Hon. CR DICK (Greenslopes—ALP) (Minister for Education and Industrial Relations) (7.29 pm): I present a message from His Excellency the Acting Governor.

Mr Deputy Speaker (Mr Wendt) read the following message—

MESSAGE

WORK HEALTH AND SAFETY BILL 2011

Constitution of Queensland 2001, section 68

I, PAUL DE JERSEY, Acting Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to provide comprehensively for work health and safety, to provide for a new definition of asbestos in particular legislation and for a work health and safety levy, to amend other legislation as a consequence, and to amend the *Workers' Compensation and Rehabilitation Act 2003* for particular purposes.

ACTING GOVERNOR

Tabled paper: Message, dated 10 May 2011, from His Excellency the Acting Governor recommending the Work Health and Safety Bill [\[4404\]](#).

First Reading



Hon. CR DICK (Greenslopes—ALP) (Minister for Education and Industrial Relations) (7.30 pm): I present a bill for an act to provide comprehensively for work health and safety, to provide for a new definition of asbestos in particular legislation and for a work health and safety levy, to amend other legislation as a consequence, and to amend the *Workers' Compensation and Rehabilitation Act 2003* for particular purposes. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Tabled paper: Work Health and Safety Bill [\[4405\]](#).

Tabled paper: Work Health and Safety Bill, explanatory notes [\[4406\]](#).

Second Reading



Hon. CR DICK (Greenslopes—ALP) (Minister for Education and Industrial Relations) (7.30 pm): I move—

That the bill be now read a second time.

The introduction of the Work Health and Safety Bill marks an historic moment in the history of work health and safety legislation, both in Queensland and Australia. Two years after the Council of Australian Governments agreed to the reform of work health and safety laws, the bill before the House provides for work health and safety legislation that will form part of a system of nationally consistent laws. Importantly, these changes will not see any reduction in health and safety standards, including the current Queensland standards for electrical safety, dangerous goods, hazardous chemicals and major hazard facilities.

The bill will put an end to the disparate and inconsistent health and safety laws across jurisdictions and cut red tape and barriers to productivity gains. It will assist in making Queensland and Australian workplaces safer, and provide certainty and consistency for employers and workers. The bill will save the Queensland economy more than \$30 million a year.

Harmonised laws will make it easier for business to operate over state boundaries, while giving workers greater input into how their workplaces operate with regards to safety. The cost of enforcing compliance with workplace health and safety laws will also be cut for government.

Currently, all states and territories have responsibility for making and enforcing their own health and safety laws. These multiple OHS regimes can result in workers and others being exposed to inconsistent safety standards across jurisdictions and industry sectors, cause confusion, complexity and duplication for businesses and lead to duplication and inefficiencies for governments in the provision of policy, regulatory and support services. The changes to occupational health and safety legislation will most definitely not be at the expense of the safety of Australian workers.

Model legislation will ensure that all types of workers are protected from workplace health and safety risks because the duties of care will extend beyond the employer-employee relationships that currently exist in most occupational health and safety laws. Rather than adhering to separate workplace health and safety regulations, multi-state businesses will be able to develop and implement an effective single prevention strategy across Australia.

The model Work Health and Safety Act compares favourably with Queensland's Workplace Health and Safety Act 1995 in terms of overall approach. It places obligations on persons conducting a 'business or undertaking', which is consistent with the Workplace Health and Safety Act 1995. It also has equivalent obligations on specific upstream duty holders such as designers, manufacturers, importers, suppliers and installers/erectors of plant. Key differences from the Workplace Health and Safety Act 1995 include a broader definition of 'worker', which includes labour hire, contractors and subcontractors, the imposition of an onus of proof on the regulator to prove an offence and tougher penalties for breaches against the act.

The increased maximum penalties reflect a combination of factors, including recommendations from the national review to strengthen the deterrent effect of the penalties and to extend the ability of the courts to impose more meaningful penalties where appropriate, as well as emphasising to the community the seriousness of the offences under this legislation.

The Work Health and Safety Bill has been drafted to give a high degree of consistency with the model Work Health and Safety Act. This includes matters such as establishing the local regulator and designating the appropriate courts and external review bodies. However, there are some variations to the model Work Health and Safety Act to address fundamental legislative principles and Queensland drafting protocols. While the bill is intended to deliver a higher degree of regulatory harmonisation across Australian states and territories, it is also important to give sufficient regard to the rights and liberties of individuals in Queensland.

The bill amends the Electrical Safety Act 2002 in relation to electrical safety obligations, offences, enforceable undertakings, inspector powers, reviews of decisions and legal proceedings to align with the provisions of the model Work Health and Safety Act. Existing parts of the Electrical Safety Act covering electrical licensing, the Commissioner for Electrical Safety, Electrical Safety Board and board committees, are retained unamended. Importantly, the broad coverage afforded by the Electrical Safety Act in relation to networks, workplaces and domestic dwellings will be maintained.

Model laws effectively cover existing requirements in the dangerous goods legislation and, as a result, regulation of dangerous goods and major hazards facilities will be under the Work Health and Safety Bill and the Dangerous Goods Safety Management Act 2001 will be repealed. While hazardous chemicals and major hazards facilities will no longer be regulated under the Dangerous Goods Safety Management Act 2001, there will be no reduction in standards as the national model Work Health and Safety Regulation and Code of Practice give effect to the existing national standards which are currently legislated for in Queensland.

The regulation of general work health and safety matters, hazardous chemicals and major hazards facilities under a single Work Health and Safety Act will align Queensland with other jurisdictions and will reduce confusion for employers and workers on the required standards that need to be met.

The bill also makes a technical amendment to the definition of asbestos. Like other Australian jurisdictions, Queensland gave effect to the definition of asbestos contained in the National Code of Practice for the control and management of asbestos in the workplace. The current definition inadvertently picks up non-asbestos containing materials. This has created problems for the Australian Customs Service, which is required to enforce the prohibition on the import of asbestos containing materials. The proposed amendment has been agreed for implementation by all Australian jurisdictions.

I turn to another feature of the bill, that in relation to the building and construction fee that operates in this state. The model Work Health and Safety Act does not contain provisions that impose a building and construction work fee as per the requirements under part 9 of the Workplace Health and Safety Regulation 2008. The building and construction work fee contributes to compliance and awareness activities including increasing the number of dedicated construction inspectors in Queensland. As a result, the bill provides for the transfer of the building and construction fee from the Workplace Health and Safety Regulation 2008 to the Building and Construction Industry (Portable Long Service Leave) Act 1991 to maintain this important component of the overall funding for Workplace Health and Safety Queensland activities.

In addition, the bill amends the Workers' Compensation and Rehabilitation Act 2003 to implement a recommendation of the *Report of the Structural Review of Institutional and Working Arrangements in Queensland's Workers' Compensation Scheme* to mandate a review of the workers' compensation scheme every five years. Further miscellaneous amendments include preserving the entitlement of private sector employees to accrue sick, annual and long service leave while on workers' compensation benefits and strengthening insurance and data collection arrangements in the construction industry.

Overall, the provisions in this bill will lead to enhanced safety protections for Australian employees and greater certainty for employers in relation to the application of work health and safety laws throughout Australia. The bill before us is part of a quantum shift in workplace health and safety in this country.