




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 15 October 2013

WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (12.07 pm): I present a bill for an act to amend the Civil Liability Act 2003, the Motor Accident Insurance Act 1994, the Personal Injuries Proceedings Act 2002, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2003 for particular purposes and to make minor or consequential amendments of legislation as stated in schedules 1 and 2. I table the bill and the explanatory notes.

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013 [\[3732\]](#).

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013, explanatory notes [\[3733\]](#).

I present a bill for an act to amend the Workers' Compensation and Rehabilitation Act 2003 and other legislation. I have tabled the bill and the explanatory notes. The Finance and Administration Committee tabled the report of its inquiry into the operation of the Queensland workers compensation scheme on 23 May 2013. This inquiry represented a break in the pattern of previous inquiries and reviews that have occurred reactively in response to external developments or pressures on the scheme's funding and stability. The Finance and Administration Committee's report made 32 recommendations. Of those, 12 recommendations are of a legislative character while 20 recommendations involve administrative and structural arrangements. The Queensland government proposes to respond to the committee's report by supporting 18 recommendations, supporting two with amendment and not supporting 12 recommendations. I now table the government's response to the committee's report.

Tabled paper: Finance and Administration Committee: Report No. 28—Inquiry into the operation of Queensland's workers compensation scheme, government response [\[3734\]](#).

The government's response to the committee's report is the result of careful analysis of both the recommendations contained in the report and the 246 submissions made to the inquiry. I would like to thank those people who took the time to make submissions to the inquiry. This government is committed to delivering Australia's best performing workers compensation scheme—a scheme that remains the envy of other Australian states and territories.

Over the last 10 years we have had the lowest average premium rate in Australia, and the Newman government wants to keep it that way. Since 2009, the average premium rate has increased by around 20 per cent, and Queensland is quickly slipping back into the pack when comparing our scheme with interstate counterparts.

There has been a lot of scaremongering in the media over recent weeks in relation to journey claims. I would like to assure the House that the bill does not include any changes to journey claims because every Queenslanders deserves to be protected when travelling to and from work. That is vitally important for a state as large and decentralised as Queensland and also recognising the transient nature of our workforce.

To that end, this bill introduces amendments that will ensure the ongoing success and viability of Queensland's workers compensation scheme by reducing duplication, simplifying regulatory processes and ensuring that compensation is available and accessible to help injured workers get back on their feet. The changes aim to strike a better balance between providing appropriate benefits for injured workers and ensuring the costs incurred by employers are reasonable.

The bill maintains access to common law damages, except for minor injuries. For injuries occurring from today, a worker will be required to have a permanent impairment of greater than five per cent, using nationally agreed assessment guidelines based on the AMA 5th edition, in order to lodge a common law damages claim. Every injured worker who has their claim for compensation accepted by WorkCover Queensland will continue—I repeat will continue—to be covered under the statutory no-fault workers compensation system, including access to weekly compensation for lost earnings until a worker's injury is stable and stationary; payment of approved medical treatment; access to rehabilitation and return-to-work services and lump sum compensation for permanent impairment.

In 2009-10 the board of WorkCover Queensland, under former chairman Ian Brusasco, recommended that the government introduce a 10 per cent to 15 per cent threshold on common law claims. Under our proposed changes, we believe we have the balance right in implementing a five per cent common law threshold. Since 2010, the number of lower-end common law claims has remained constant or increased in certain work related impairment bands, which is of significant concern to the government. These claims accounted for around half the common law payouts in the scheme in 2011-12. Left unchecked, this would increase pressure in the long term on the ongoing viability of the scheme.

The government believes these claims are more appropriately dealt with through the statutory no fault system instead of through the courts. This will ensure the focus of injured workers and their employers is on rehabilitation and getting injured workers back to work as soon as it is safe for them to do so. This will also be strengthened as a result of the requirement to mandatorily refer injured workers to an accredited return-to-work program to facilitate improved return-to-work outcomes and minimise the injured worker's future economic loss. It should be noted that the statutory claim process is far more efficient than that of a common law claim.

The structure of Queensland's Workers Compensation Scheme is currently the most complex in Australia. The scheme operates under three separate agencies which increases duplication, ambiguity of roles and, ultimately, scheme costs. To simplify the scheme, the bill proposes to merge the Workers Compensation Regulatory Authority, Q-Comp, into the Office of Fair and Safe Work Queensland in the Department of Justice and Attorney-General. This will be a seamless transition that by no means illustrates any concerns with the performance of Q-Comp but rather signifies the government's intention to reduce confusion in the community and simplify the structure of the current system.

The merging of the workers compensation scheme regulator with the electrical safety and work health and safety regulator will provide economies of scale and go towards developing a more integrated corporate identity regulating injury prevention, injury management, claims management and return-to-work services. Under the new structure, regulatory independence from WorkCover will be maintained and WorkCover will continue to act as the sole provider of workers compensation insurance to Queensland employers. The Q-Comp board will continue to operate and provide policy advice for the regulator until the term of the current board expires on 30 June 2014. This will help oversee the structural transition.

The bill will increase the onus on workers to prove psychiatric and psychological disorders are work related. Workers will have to satisfy insurers that their employment was 'the most' significant contributing factor to the injury or aggravation in order to be compensated.

The bill will also empower employers to further reduce workplace injuries by tailoring work health and safety procedures for individual workers. This will be achieved by allowing employers to request potential workers to disclose pre-existing injuries that could reasonably be aggravated by performing the duties of employment and to allow access to a prospective worker's claims history—no different to other insurance schemes across Australia.

The government also listened to the concerns of business over the potential for fraudulent claims. It is proposed to further increase the penalties for defrauding or attempting to defraud insurers under the scheme and will bring them in line with penalties in other jurisdictions. The bill also closes a potential loophole caused by *Foster & Anor v Cameron* by ensuring that a court cannot award

damages for domestic services that are provided gratuitously to a worker by his or her family or household and to prevent a worker converting gratuitous services received prior to trial into paid services after trial.

Workers compensation is not about workplace entitlements; it is an insurance scheme paid by employers to compensate injured workers and help them get back to work. To that end, I want to see WorkCover and self-insurers in the Queensland scheme have a stronger focus on return-to-work outcomes. Getting injured workers back to work is good for the worker and good for the employer.

Having a competitive premium will encourage more investment into our great state of Queensland, which means more jobs for Queenslanders. It is not good enough for us to simply settle for second best. We want to maintain the Queensland scheme as the best performing scheme in Australia and to be the envy of every other state and territory. The changes I have outlined in the bill will ensure that we will once again lead the nation by having the best scheme that focuses on injury management, rehabilitation and return-to-work outcomes for injured workers and a reduction in premium for employers. We believe we have the balance right. I commend the bill to the House.

First Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (12.15 pm): 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.

Declared Urgent; Allocation of Time Limit Order

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (12.15 pm), by leave, without notice: I move—

That under the provisions of standing order 137 the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill be declared an urgent bill to enable the bill to be passed through its remaining stages at this week's sitting.