




Speech By
Hon. Curtis Pitt

MEMBER FOR MULGRAVE

Record of Proceedings, 15 July 2015

**WORKERS' COMPENSATION AND REHABILITATION AND OTHER
LEGISLATION AMENDMENT BILL**

Message from Governor

 **Hon. CW PITT** (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (4.34 pm): I present a message from His Excellency the Governor.

Mr SPEAKER: The message from His Excellency recommends the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL 2015

Constitution of Queensland 2001, section 68

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intituled

A Bill for an Act to amend the Electrical Safety Act 2002, the Workers' Compensation and Rehabilitation Act 2003 and the Work Health and Safety Act 2011 for particular purposes


(Sgd)

GOVERNOR

Date: 15 JUL 1015

Tabled paper: Message, dated 15 July 2015, from His Excellency the Governor, recommending the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 [\[788\]](#).

Introduction

 **Hon. CW PITT** (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (4.35 pm): I present a bill for an act to amend the Electrical Safety Act 2002, the Workers' Compensation and Rehabilitation Act 2003 and the Work Health and Safety Act 2011 for particular purposes. I table the bill and explanatory notes. I nominate the Finance and Administration Committee to consider the bill.

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015 [\[789\]](#).

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2015, explanatory notes [\[790\]](#).

Queensland's workers compensation scheme is an important economic driver for our state and jobs and should not be amended without careful consideration. Successive Labor governments have sought to create a fair, sustainable and efficient scheme by balancing low premium rates for employers with good benefits for injured workers, and to promote durable return-to-work programs. Since the

Beattie government was first elected in 1998, the scheme has been monitored, adjusted and finetuned in response to the prevailing economic conditions. But that all changed when the ideological extremity of the former government overruled the findings of its own LNP dominated Finance and Administration Committee's inquiry into the operation of Queensland's workers compensation scheme. I was the deputy chair of that committee. Shamefully, the LNP threw out this balance by introducing a greater than five per cent threshold to access common law that unfairly reduced the rights of workers when there was no sound or genuine policy reason or need to do so.

The threshold introduced by the LNP unjustly denied access to common law rights to many workers permanently injured due to negligence on the part of their employer. To some, a permanent impairment of one per cent, two per cent or three per cent may not sound significant, but let me detail at least one real life example that highlights the utterly reprehensible nature of those changes. I will not give personal details, but I have permission to use the real details of the case. A 36-year-old plumber sustained an injury after the introduction of the threshold when he fell heavily to the ground from a ladder while trying to access a roof on a private residence. His employer had failed to implement a safe system of work and the worker had not been trained in how to safely tie off a ladder. Had the employer done so, his injuries could have been prevented. The worker tore the meniscus in his left knee and badly injured his calf muscle such that it required surgery which subsequently resulted in disfigurement. Both these injuries were assessed at a total of three per cent permanent impairment. The worker has had surgery, has undergone physiotherapy and hydrotherapy without significant benefit. He continues to experience significant pain daily. His injury has meant that he can no longer do plumbing work and he lost his well-paid plumbing job. It is unclear whether he will ever be able to return as he is unable to stand for long periods due to his injuries. This worker's future job prospects are in doubt which impacts on his ability to provide for his young family.

This case highlights the injustice caused to a worker with a low permanent impairment who lost out and will continue to lose out in the future due to the LNP's unfair threshold. For this worker, the restriction on being able to seek common law damages from a negligent employer through the courts is a right that should never have been restricted.

This bill aims to restore fairness and balance to Queensland's workers compensation scheme. I have previously advised the House that premiums will be able to be maintained at \$1.20 per \$100 of wages paid—the lowest in the country. I am pleased to advise that the government will continue to work with the WorkCover Queensland Board to maintain these low premiums. But, importantly, the bill also reinstates common law rights for all injured workers who can prove negligence on the part of their employer by removing this unfair common law threshold. This restores the balance established under previous Labor governments. Again, I reiterate that the 2013 legislative amendments were unnecessary, offensive and opposed by not only this government but the legal community and even some well-known LNP figures.

In response to increasing common law claims numbers and the financial pressure that those claims were placing on the scheme, in 2009 the then Labor government undertook a wide-ranging review. The outcomes of that review resulted in the 2010 amendments to the act which were aimed at applying downward pressure on common law claims. This was achieved by introducing greater alignment with the Civil Liability Act 2003, caps on the amount of general damages, costs consequences on unsuccessful plaintiffs in order to discourage speculative actions, as well as abolishing strict liability for breach of specific statutory duties.

The effect of these 2010 amendments was considered by the parliament's Finance and Administration Committee in its inquiry into the operation of Queensland's workers compensation scheme conducted over 2012-13. That LNP dominated committee recognised that imposing a common law threshold would improperly take away rights from one group of Queenslanders that are available to other Queenslanders. The committee also considered that a threshold should not be imposed, as the full impact of the 2010 amendments on common law claims had yet to be fully realised.

The impact of the 2010 reforms on the cost of common law claims is now clear. Between 2009 and 2014, there was a 15 per cent reduction in the number of common law claims lodged in the scheme and a 10 per cent reduction in the average annual cost of a common law damages claim. This clearly indicates that Labor's 2010 reforms have achieved and continue to deliver ongoing savings and improvements to Queensland's workers compensation scheme, without attacking the basic entitlements and rights of workers.

Labor went to the Queensland state election committing to remove the unfair threshold if we were elected to government and to work with industrial organisations and the legal community to seek a swift and calm transfer to the new workers compensation system, with consideration of the rights of injured workers and the timing of workers compensation payments. To achieve this commitment, a stakeholder reference group was established that consisted of representatives from employers, insurers, unions

and the legal community. The views of this group informed the government's decision on the timing of the removal of the common law threshold, which will be for all injuries that occurred on or after the date of the Queensland state election.

The government is taking further advice from the reference group as to how we can mitigate the negative impact on workers who were injured between 15 October 2013 and 30 January 2015 who are unable to access common law damages. The majority of the group advised the government that they are concerned with the unfairness caused to those workers who were denied an opportunity to access common law damages and are working on a proposal that addressed this unfairness, balanced against the objective of maintaining the financial viability of the workers compensation scheme.

This bill also fulfils a commitment from this government to provide greater certainty of coverage for Queensland firefighters by introducing deemed disease provisions for certain latent onset diseases. The provisions will apply to current or former firefighters who are diagnosed with one of the schedule cancers on or after today. Under these changes, if a firefighter develops one of 12 specified cancers and meets the qualifying period of active firefighting service, then the cancer will be deemed to be work related. This means sick firefighters will not have the burden of proving that their cancer is the result of their firefighting work, ensuring they have more timely access to compensation benefits.

These amendments will apply to all active permanent and auxiliary firefighters and to all active rural fire brigade members and volunteers. A volunteer's service will be considered to be active firefighting if they have attended at least 150 such exposure incidents. Volunteer firefighters who contract one of the 12 specified cancers and have attended 150 exposure events will be entitled to access common law damages and have the same entitlements as permanent and auxiliary firefighters. No other deemed disease scheme in Australia offers volunteer firefighters unfettered access to common law damages.

The former government had three long years to deliver on this important legislative reform for Queensland's permanent, auxiliary and volunteer firefighters, and it failed to do so. They did nothing. With this bill, the Palaszczuk government is ensuring that those firefighters who contract one of the specified cancers are given the financial security to look after their families, allowing them to focus on fighting the disease.

The government has also listened to privacy concerns with the current legislative entitlement, which gives prospective employers access to a prospective worker's claims history. This government holds concerns about how these claim history summaries may be impacting not only on a worker's privacy but also on how they may be used against workers in their future career prospects. In the interests of fairness for all parties, we believe it is best that copies of an individual's claims history not be available to prospective employers. As such, this bill removes that option from the act.

The bill also makes a number of other minor miscellaneous amendments that will improve the day-to-day operation of Queensland's workers compensation scheme. For example, the amendment bill will provide greater discretion for the Workers' Compensation Regulator to consider special circumstance reasons for the late lodgement for applications for review. This bill demonstrates that this government is not just interested in but is also listening to the concerns and opinions of Queenslanders. Queensland workers lost their rights and their voices under the former government. In stark contrast, this government believes access to a sustainable and fair workers compensation scheme is a basic human decency for all Queensland workers. This bill will restore fairness and balance to Queensland's workers compensation scheme and our democratic process.

First Reading

Hon. CW PITT (Mulgrave—ALP) (Treasurer, Minister for Employment and Industrial Relations and Minister for Aboriginal and Torres Strait Islander Partnerships) (4.44 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.

Referral to the Finance and Administration Committee

Mr DEPUTY SPEAKER (Mr Furner): Order! In accordance with standing order 131, the bill is now referred to the Finance and Administration Committee.