




Speech By  
**Deb Frecklington**

**MEMBER FOR NANANGO**

---

Record of Proceedings, 31 August 2016

**WORKERS' COMPENSATION AND REHABILITATION (NATIONAL INJURY INSURANCE SCHEME) AMENDMENT BILL**

 **Mrs FRECKLINGTON** (Nanango—LNP) (Deputy Leader of the Opposition) (4.30 pm): I rise to contribute to this debate in relation to the Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016. Firstly, we must note that the committee could not all agree that this bill be passed and that there were statements of reservation about this bill not only by the opposition members on the committee—and we have heard a lot about that throughout this debate, particularly by the shadow minister, the member for Kawana—but also by the government members on the committee, who also had reservations about certain aspects of the bill but unfortunately have not had the courage of their convictions in bringing them to the debate here today.

As noted by other opposition members who have spoken so far, we do not oppose the whole bill. We agree that there must be a mechanism to help people who are catastrophically injured during the course of their work. However, we strongly oppose the section of the bill that deals with the Byrne amendment—a section that would see the reversal of the much talked about Byrne judgement. The Byrne judgement of October 2014 validated the use of hold harmless clauses which transfer a third-party's liability, such as a principal contractor, to the worker's employer, such as a subcontractor. The judgement validated practices that were already occurring in the industry. It cemented longstanding practices whereby principal contractors would include clauses in contracts to ensure injured workers around Queensland are suitably protected and insured. However, the bill we are now debating before the House seeks to nullify these clauses by reversing the Byrne judgement and prohibiting the contractual transfer of liability from principal contractors to employers with a workers compensation insurance policy.

If this particular section of the bill is passed, it will mean that someone who is injured may find themselves at risk of not being covered by any insurance. This is because the principal contractors and host employers are excluded from WorkCover coverage. This leads to a complex situation that, if an injured worker of a subcontractor on a site makes a common law damage claim against both his own employer and a principal contractor, that claim, as far as the principal contractor is concerned, sits outside of the WorkCover policy.

A consequence of this has been more than talked about throughout this debate. There is potential here for some principal contractors to lack awareness of the need to secure their own private insurance. Hence, those most at risk as a result of this potential gap are the injured workers. It is an ironic situation for a Labor government—a Labor government where every single Labor member claims to stand up for the workers. Just like I talked about the environment last night, it appears that once again it is those on this side of the House, the LNP, who are standing up for the workers. It is just incredible that the Labor government refuse, and fail, to stand up for those workers. They sit over there and laugh and cackle about it, but they know and the people of Queensland know.

Despite the fact that this government keep reminding us that they are here to consult with Queenslanders, that they are here to talk to Queenslanders, again, we have a bill before the House that has not gone through the proper consultation processes. We heard that. I was listening to the member for Broadwater last night talk about it in this debate where she was explaining how there was a complete lack of consultation. It is not only us who are saying that but also the Housing Industry Association, the HIA, and Master Builders are saying that they were not consulted in relation to this. Again, it is only the LNP who stands up for the rights of workers. The committee process exposed their lack of consultation. As the Master Builders noted, like I have said, they were not consulted on this bill until it was posted on the website. The Housing Industry Association were consulted to a certain degree but not on the reversal of the Byrne judgement which is what I am talking about here today and what we oppose in this bill.

As such, two of the three recommendations agreed to by the committee focus on further consultation. There has been no case made as to why these changes are necessary and why they should be supported and why they should be retrospective. The LNP opposition therefore believe that the Byrne amendment needs to be withdrawn from this bill.

**Ms Grace:** You don't understand it.

**Mrs FRECKLINGTON:** I take that interjection from the minister, who was not in her seat, saying there is a lack of understanding around consultation. I note that the lack of consultation is on the record and it is noted by the committee. It is also noted by the fact that there are Labor members sitting in this House who will not stand up with the courage of their convictions because they put in the report that this bill needed further amendment as well.

The government needs to consult with affected stakeholders. That is obvious. Again, bill after bill after bill comes into the House—we can talk about lack of consultation and giving just 18 minutes notice in relation to amending quite a major bill, but that may be going off the topic slightly, except to go to the point that it is the Palaszczuk Labor government that continually decide to not consult with the people who are affected by the bills that they are bringing before this House. Let us make it clear: the LNP opposition supports the extension of the National Injury Insurance Scheme to those who are catastrophically injured at work, but we do not support the provisions which seek to reverse the Byrne judgement.