



Speech By  
**Hon. Grace Grace**


**MEMBER FOR BRISBANE CENTRAL**

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Record of Proceedings, 14 June 2016

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

**Introduction**

 **Hon. G GRACE** (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (12.33 pm): I present a bill for an act to amend the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes. I table the bill and the explanatory notes. I nominate the Finance and Administration Committee to consider the bill.

*Tabled paper:* Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016 [\[872\]](#).

*Tabled paper:* Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill 2016, explanatory notes [\[873\]](#).

I present a bill for an act to introduce compensation payments for lifetime treatment, care and support into Queensland's workers compensation scheme to implement the National Injury Insurance Scheme for workers who are catastrophically injured in workplace accidents connected with Queensland. The National Injury Insurance Scheme is a companion scheme to the National Disability Insurance Scheme and will have a significant positive impact on the lives of Queenslanders who sustain life-changing injuries as a result of their work.

The bill is part of a significant social reform which includes the establishment by the Palaszczuk government of the National Injury Insurance Scheme Queensland for motor vehicle accidents to commence from 1 July 2016. In 2013, the then government signed a national heads of agreement with the Commonwealth which committed Queensland to either implement a lifetime care and support scheme for workplace accidents that meets the national minimum benchmarks or be 100 per cent responsible for the costs of people who sustain catastrophic injuries from 1 July 2016.

Queensland's workers compensation scheme is the best performing in Australia. It is a fair, sustainable and efficient scheme which balances low premium rates for employers with good benefits for injured workers. Queensland is the only jurisdiction with a centrally funded, short-tail workers compensation scheme. No-fault statutory benefits are currently provided to workers who are catastrophically injured for a maximum period of between two and five years. If injured workers can establish their employer was at fault in causing their injury, they also have access to lump sum common law damages for future care and support, loss of future earnings and pain and suffering. While the workers who have catastrophic work related injuries in Queensland can receive their full statutory and common law workers compensation entitlements under the current scheme structure, current statutory no-fault entitlements are not guaranteed to meet their treatment, care and support needs for their lifetimes.

On 21 March 2016, the Education, Tourism, Innovation and Small Business Committee tabled in the Legislative Assembly its report on its inquiry into a suitable model for the implementation of the National Injury Insurance Scheme for motor vehicle accidents. The parliamentary committee recommended that the government consider the National Injury Insurance Scheme for motor vehicle accidents serving as a platform for the other proposed National Injury Insurance Scheme arrangements in Queensland. The deliberations of the parliamentary committee, as well as those of the Communities, Disability Services and Domestic and Family Violence Prevention Committee, to which the inquiry was originally referred, have informed the development of this bill.

Consistent with the parliamentary committee's recommendation, the bill proposes arrangements for treatment, care and support payments within Queensland's workers compensation scheme which align with the arrangements under the National Injury Insurance Scheme Queensland for motor vehicle accidents established under the National Injury Insurance Scheme (Queensland) Act 2016. These arrangements involve extending existing no-fault statutory compensation entitlements for injured workers who sustain serious personal injuries on or after 1 July 2016, while retaining common law rights to claim damages for treatment, care and support of injured workers who can establish their employer was at fault in causing their injury.

Under the proposed amendments, access to treatment, care and support payments will be available through the existing process under the Workers' Compensation and Rehabilitation Act 2003 where claimants can apply for statutory compensation benefits on the basis that they are a worker who has a work related injury. Workers will be eligible for treatment, care and support payments if they sustain serious personal injuries that include a serious permanent spinal injury, a traumatic brain injury, high level or multiple amputations, severe burns or permanent traumatic blindness.

Treatment, care and support payments for eligible workers will meet their necessary and reasonable treatment, care and support needs, including for medical treatment, hospitalisation, dental treatment, rehabilitation, ambulance transportation, respite care, attendant care and support services, aids and appliances, prostheses, education or vocational training, and home, transport or workplace modification. Workers may be assessed as being entitled to treatment, care and support payments for an interim period of up to two years initially or for their lifetime. In contrast with the Queensland workers compensation scheme's short-tail design, workers with lifetime entitlement will have treatment, care and support provided for their lifetime unless they opt out of these payments.

Where seriously injured workers claim damages for their injury, they will be able to elect to opt out of receiving treatment, care and support payments and accept a lump sum award of damages for treatment, care and support. In recognition of the challenges involved in managing large lump sum payments to ensure they continue to meet the recipient's needs, and consistent with the National Injury Insurance Scheme Queensland, this election will be subject to meeting certain safeguards. These safeguards include that the worker is entitled to receive treatment, care and support payments for their lifetime, their damages claim is not subject to contributory negligence of 50 or more, and the court has not prevented them from being awarded a lump sum. Seriously injured workers who cannot, or choose not to, opt out of treatment, care and support payments will continue to receive treatment, care and support services through the workers compensation scheme. To maximise choice and independence for workers, services will be available through individualised support plans or self-directed funding arrangements.

To support these arrangements and ensure consistent high-quality care, workers compensation insurers, including WorkCover Queensland and self-insured employers, will refer the management of seriously injured workers' treatment, care and support to the National Injury Insurance Agency Queensland established for motor vehicle accidents. This will be achieved through a contractual arrangement and will leverage the expertise established for managing the larger group of motor accident participants to ensure that the treatment, care and support needs of all seriously injured Queenslanders are met consistently. Workers compensation insurers will continue to fund treatment, care and support payments, and contribute to the agency's operating costs.

The existing cost-effective and efficient dispute resolution process mechanisms within Queensland's workers compensation scheme will be used for disputes about treatment, care and support including the Medical Assessment Tribunals to resolve medical disputes, internal review by insurers, review rights to the Workers' Compensation Regulator and appeal rights to the Queensland Industrial Relations Commission. The additional cost to Queensland's workers compensation scheme of incorporating treatment, care and support payments for serious personal injuries will be met through employer premiums, and no impact on the average premium rate of \$1.20 per \$100 of wages paid is expected.

A stakeholder reference group comprised of workers compensation scheme stakeholders including representatives from insurers, employers, unions, legal associations and the Motor Accident Insurance Commission was consulted on the proposed amendments. I thank the members of this group for their contributions which informed the development of the treatment, care and support arrangements proposed in the bill.

To provide self-insurers with greater flexibility for managing claims liabilities, including additional liabilities which may arise due to treatment, care and support payments for serious personal injuries, the bill also provides for an alternative form of self-insurance security in the form of an unconditional financial guarantee issued by general insurers. The bill also removes the current minimum value of the guarantee of \$5 million while maintaining the requirement that the guarantee be set at 150 per cent of a self-insurer's estimated claims liability. This will free up significant capital that will enable these employers to fund business growth and employment in Queensland. The bill will also enable self-insurers who decide to return to a WorkCover Queensland insurance policy to return to self-insurance within five years under the same minimum employee criteria that applied at the time they originally became self-insurers.

The bill also amends the Workers' Compensation and Rehabilitation Act 2003 to restore the original policy intent and provide certainty for insurers, employers, workers and the courts after recent court decisions have interpreted various provisions in ways that could adversely affect the operation of the scheme. The bill prevents the contractual transfer of liability for injury costs from principal contractors or host employers to employers with a workers compensation insurance policy such as subcontractors or labour hire employers and clarifies that an insurer will not be liable to indemnify an employer for a liability to pay damages incurred by a third-party contractor under a contractual arrangement.

The bill also provides that, where the Workers' Compensation Regulator commences certain prosecutions including for fraud related offences against the act, it is the regulator's knowledge of the commission of the offence that is relevant to the time frame for the commencement of the proceedings. The bill will clarify that insurers must immediately refer such matters as soon as they have a reasonable belief that fraud has occurred.

To prevent financial hardship to those relying on workers compensation payments, the bill amends the Workers' Compensation and Rehabilitation Act 2003 to provide for an alternative indexation method for statutory compensation and common law damages entitlements. The proposed method will not result in a reduction to any payments or amounts as a consequence of a reduction in the value of Queensland ordinary time earnings while ensuring indexation keeps alignment to this measure.

By implementing the National Injury Insurance Scheme for catastrophically injured workers, this bill continues to build on the Palaszczuk government's significant reforms providing greater support and opportunities for the most vulnerable members of our community through the transition to the National Disability Insurance Scheme and the establishment of the National Injury Insurance Scheme Queensland.

### **First Reading**

**Hon. G GRACE** (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (12.46 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**

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