Speech By

# Scott Stewart

## MEMBER FOR TOWNSVILLE

Record of Proceedings, 26 May 2016

## NATIONAL INJURY INSURANCE SCHEME (QUEENSLAND) BILL

**Mr STEWART** (Townsville—ALP) (3.25 pm): I rise to speak in support of the National Injury Insurance Scheme (Queensland) Bill 2016 as the chair of the Education, Tourism, Innovation and Small Business Committee, which had the responsibility to initially conduct an inquiry into the most suitable model and was then later required to examine the bill in detail. Firstly, I would like to acknowledge the many groups and organisations for their submissions and those who spoke to the committee at the various public hearings over the duration of the inquiry and examination of the bill. I would also like to thank the various members from both sides of the House who were either members of the committee or substitute members for their involvement in the inquiry and examination of the bill. I, too, would like to express my sincere adulations to the secretariat staff of both the Education, Tourism, Innovation and Small Business Committee as well as the Communities, Disability Services and Domestic and Family Violence Prevention Committee for their outstanding efforts in both inquiries over a short time frame. Every so often we debate and implement legislation that will protect and serve the people of Queensland. This bill is one of those pieces of legislation. I am honoured to have been part of the committee that conducted the inquiry and examined the bill. I must say, it was not an easy task.

As we have already heard, the former Newman government signed a heads of agreement between Queensland and the Commonwealth on the NIIS, which is designed as a lifetime care and support scheme for people who sustain catastrophic injury from accident, regardless of fault, based on the motor accident schemes that operate in some states and territories. The first inquiry into a suitable model for the implementation of the NIIS was a rigorous and thorough inquiry that initially examined two suggested models for implementation. The first model was a full no-fault lifetime care and support scheme—LCSS—where there would be no lump-sum compensation for lifetime care and support costs. Instead, the claimant's lifetime care and support costs would be met by the LCSS as they arise over their lifetime. The second model suggested a hybrid model, consisting of the existing common law scheme and the LCSS. Under that proposal, the claimant who is catastrophically injured in a motor vehicle accident and who can establish that another driver was at fault would be eligible to pursue a common law claim. Although the committee could not reach a successful determination on the most successful model, the government members of the committee preferred the hybrid model as it allowed individuals to exercise their common law rights and pursue a lump-sum payment for their catastrophic injuries.

When the NIIS(Q) Bill was referred to the committee, it was very clear that the model for implementation was very similar to the hybrid model that was examined in the inquiry, which incorporated the ability for individuals who are catastrophically injured, where fault can be established to a second party, to be able to pursue their common law rights to claim a lump sum payment. However, it also determined that all individuals would initially enter the NIIS to ensure that they obtain immediate care and support.

The construction of this bill affords the individual person to have an option: their ability to exercise their right to pursue a common law claim for catastrophic injuries and to access a lump-sum payment. This lump sum payment respects the dignity and the rights of a responsible and capable person to manage their own lifetime care and support. A lump sum payment affords the individual to make decisions for them and by them on their care and support in exactly the same way that the NDIS will.

During the initial inquiry, concern was raised about safeguards on lump sum payments. Committee members directed questions around the possibility of lump sum payments being accessed by the individual to squander at the casino, the racetrack or the like. We also heard of the possible scenario where a catastrophically injured person may be pressured, through cultural responsibilities to their community, to hand over their lump sum payment in total to the family or the community. The ability for an individual to choose to pursue their common law right to claim a lump sum compensation payout from a CTP insurer under this bill is dependent on a number of filters that would preclude the individual from advancing through the legal system. These filters include initially obtaining legal advice on their possible lump sum payment. Secondly, it would be dependent on their level of contributory negligence to allow them to proceed. Finally, a court would need to determine that the individual was able to manage a lump sum payment before progressing to a settlement judgement. At all points along this journey the individual has the choice, the right, to at any stage return to the NIIS for lifetime care and support. At any stage the individual has the choice, regardless of a no-fault CTP claim, to exercise their right to choose.

During both inquiries concerns were raised with submitters regarding exhaustion of lump sum payments. As you can imagine, exhaustion of a lump sum payment would be catastrophic for the individual. However, when questioned submitters could not produce any documentation or research that determined the number of lump sum claimants who have exhausted their payouts. Throughout this debate we will hear about the additional cost borne by the motorist through the hybrid scheme, the scheme that allows the individual to have a choice about their lifestyle and their care and support. We will hear that the difference between the Lifetime Care and Support Scheme and the hybrid scheme has been calculated at $8 dollars per annum.

The quality of this long-tailed scheme has some dire consequences for those jurisdictions that have gone down the path of a complete lifetime care scheme without the ability for the individual to pursue their common law right to claim compensation. During the public hearings the committee heard from submitters from a range of legal organisations and associations, including the Australian Lawyers Alliance. They cited the New Zealand model, which is purely an LCSS scheme, which had two problems. Firstly, the scheme reduced the benefits down to the very people they are intended to benefit. The benefits became far less appropriate for the needs of the victim. In other words, those that this legislation is designed to protect ended up becoming the victim of a poorly designed implementation model. Secondly, under the New Zealand scheme the fund needed to be topped up with funds from Consolidated Revenue. In fact, the taxpayer ends up picking up the burden. The scheme becomes a huge bureaucratic nightmare and becomes extremely costly to the taxpayer. The second example Mr Hodgson from the ALA cited was a South Australian scheme. That scheme removed all common law rights and almost immediately the scheme went into the red. Within a few short years their unfunded liabilities were in excess of $1 billion. There was also the thought that removal of common law rights would reduce the premium rate. Unfortunately, this did not happen either and premium costs soared.

We will hear today that the largest concern of those opposite is the cost difference between the two different schemes, the Lifetime Care and Support Scheme and the hybrid scheme in this bill. The cost difference from Treasury indicated that the difference was $8 per annum—$8 per annum to allow people to exercise their common law right to pursue a lump sum payout that they can manage themselves; an $8 difference, as we heard from the ALA, between having a scheme that provides quality lifetime care and support to victims or a scheme that provides bare bones, minimalist and dodgy lifetime care and support. The difference is $8 per year—the cost of two cups of coffee—between the taxpayer copping another slug to their hip pocket later down the track due to the perceived initial cheaper price.

Members of this Assembly need to make a decision about what are the best long-term outcomes for Queenslanders who suffer catastrophic injuries through motor vehicle accidents. To ensure those Queenslanders receive the quality lifetime care and support needed for them, it is coming down to the difference between the cost of two cups of coffee per year. It is for the reason that this bill with the hybrid model will produce the best long-term lifetime care and support scheme that allows the individual to exercise their common law right as a choice that I commend the bill to the House.