




Speech By  
**David Janetzki**

**MEMBER FOR TOOWOOMBA SOUTH**

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Record of Proceedings, 23 August 2017

**WORKERS' COMPENSATION AND REHABILITATION (COAL WORKERS' PNEUMOCONIOSIS) AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr JANETZKI** (Toowoomba South—LNP) (8.44 pm): That deeply moving and personal testimony from the member for Bundamba exactly sums up why this first legislative step is so necessary: so that the death of the member for Bundamba's grandfather's and her father's diagnosis are not in vain. This is merely the first legislative step, as the member for Southern Downs said earlier, to overcome the catastrophic failings over decades. I pay tribute to the member for Bundamba and her coalmining background.

As I have mentioned, this bill is the first step. There is much more to be done from the 412-page report of the select committee that the member for Bundamba chaired and which was deputy chaired by the member for Southern Downs. I look forward to seeing the minister's response and what additional legislative steps are taken arising from that report in the coming weeks and months.

As at the release of that report on 29 May 2017 there were 21 current and former coalmine workers in Queensland that had been diagnosed with black lung and there were 17 cases involving miners who were working in the industry at the time of their diagnosis. Before 2015 Queensland coalminers were generally advised that black lung disease had been eradicated, and it was true that there were no diagnosed cases in Queensland since 1984. This view was jointly held—it was not held in a singular fashion—by the Department of Natural Resources and Mines, Queensland Health, the Department of Industrial Relations, the Queensland Resources Council, mine operators, trade unions and workers. State employees responsible for the monitoring and management of the safety of coal workers, including health and safety representatives, had not raised the issue with the department or the Mines Inspectorate about risks arising from coaldust until 2015. That view is now manifestly mistaken.

The evidence collected by the select committee is compelling and action must be taken—action that the LNP called for first. It was the LNP that led to the stepping up of the pace of this action. It is appropriate to reflect on the contribution the coal industry makes to the Queensland economy because such reflection emphasises why it is necessary that coalminers' pneumoconiosis is properly diagnosed, managed and, where possible, mitigated in the years ahead. Australia has been built on the coal industry and without it the nation and Queensland would look very different.

Initially the coal industry was small scale and dedicated to domestic heating, but from the early 1900s expanded into industrial development. There were steamships, railways and steam mills that were sawing logs or grinding wheat and during the century the scope of coal grew into base power generation and steel manufacturing. Post World War II coal became one of the drivers of the nation's wealth with export markets opening up across the world—Asia in particular. Today there are 51 operating coalmines in Queensland and Australia is the world's fourth largest producer. The coalmining industry in Queensland directly employs around 30,000 employees as at the end of 2016.

Our budget would look very different without coalmining—\$3.4 billion has been contributed to the bottom line of the state in taxation and royalty revenue. The importance of the industry to the Queensland economy highlights why the protection of the workers who work in that industry is so vitally important into the future.

The bill seeks to insert a new subdivision to chapter 1 of the Workers' Compensation and Rehabilitation Act. That act regulates statutory compensation and common law damages for injuries suffered by workers in the course of employment in Queensland.

The bill proposes a new scheme for responding to black lung and other dust lung diseases based on a new definition in the act of 'coalmine dust disease', being a respiratory disease caused by exposure to coaldust. The scheme is proposed to extend beyond workers who are directly engaged in coalmining and, therefore, may have significant effects on Queensland mining industry service providers. Notably, it seeks to address the inadequacies of the workers compensation scheme in Queensland. Those inadequacies are being addressed through various amendments.

The principle of a pneumoconiosis score has been introduced, which is a medically assessed score that grades pneumoconiosis disease based on changes shown on chest X-rays. To be eligible for assessment of a pneumoconiosis score, the worker must prove to the insurer that they were exposed to coaldust at their place of employment for a period of six months. The six-month period does not need to be continuous and the source of the coaldust need not be directly related to coalmining. Further provisions in the bill allow for a worker to receive up to \$120,000 in lump sum compensation on a scale and calculated on the basis of the pneumoconiosis score and the worker's age at the time of lodgement.

The bill allows for the reopening of a claim for compensation and, therefore, raises a number of technical legal issues, in particular, the 'once and for all' rule. Workers already in receipt of a settlement or judgement for damages will be able to reopen a claim for compensation. The reopening of compensation claims will also extend to settlements or judgements that do not include damages to compensate a worker for the future deterioration of the injury. If the relevant settlement or judgement did not expressly outline that it included damages to compensate the worker for future progression of the injury, it will be assumed that the award did not contemplate the injury's future progress and the worker will be entitled to pursue additional compensation. Compensation claims will also be able to be reopened in circumstances where the worker's pneumoconiosis score worsens after a settlement is agreed.

It is these changes that have resulted in the committee's recommendation that the minister consider the application of the common law 'once and for all' rule. It is a long established principle of tort law that states that for causes of action arising from the same material facts the damages awarded must compensate the plaintiff in respect of all losses that the plaintiff has suffered and will suffer in the future. Accordingly, once damages have been assessed, a plaintiff may not make further claim for damages should their injury result in greater loss than evidence suggested at the time of the original assessment. The rule also provides that the defendant may not seek recovery of the damages if the plaintiff's condition improves. Concerns were raised by submitters to the committee in this regard, including the QLS and Maurice Blackburn. The application of the changes require deeper analysis and a watching brief will need to be undertaken in the years ahead.

The bill introduces minor changes to the Electrical Safety Act to permit the Electrical Safety Regulator to immediately suspend a person's electrical work licence if the regulator believes that the person may be responsible for electrical work that has caused a death or grievous bodily harm or has otherwise carried out electrical work that poses an imminent serious risk to the health or safety of any person. The regulator will also permit the Electrical Licensing Committee to direct an electrical work licence holder to undertake a competency reassessment where there are reasonable grounds to believe the licence holder may not be competent. That power is similar to a power in the Work Health and Safety Regulation 2011 for directing the reassessment of competency for high-risk work licence holders in certain circumstances.

These amendments will add weight to existing licensing obligations and will influence a stronger compliance culture throughout the electrical services industry. Serious safety incidents will not just raise licensing issues for licence holders but also directly impact their earning potential should their status as a licence holder be threatened.

The amendments proposed in the bill tonight relate primarily to black lung, which is the appropriate place at which to finish my contribution. This is a necessary first step to address, as the member for Southern Downs said, catastrophic failures over decades. It is the first step in a long legislative process that I know will be undertaken by this parliament so that men such as the father of the member for Bundamba may not be known just as 'No. 24' but by their hard work in one of the defining industries of our great state.