



Speech By  
**Hon. Grace Grace**


**MEMBER FOR BRISBANE CENTRAL**

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Record of Proceedings, 23 August 2017

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

**Second Reading**

 **Hon. G GRACE** (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (5.09 pm): I move—

That the bill be now read a second time.

With this bill, the Palaszczuk government continues to deliver fairness in enhancing the workers compensation scheme, strengthening the electrical licensing framework and acknowledging the concerns of people affected by work related fatalities and serious injuries and illnesses. When coal workers' pneumoconiosis, or black lung, was reidentified in Queensland, the Palaszczuk government acted quickly to establish a stakeholder reference group involving representatives of workers, industry, the legal profession and the government, including the Department of Natural Resources and Mines. The reference group was tasked with identifying any gaps in the current workers compensation scheme for workers suffering from this disease—in particular, looking at ways to support retired workers and workers who have left the industry in obtaining a diagnosis, including the funding of the costs of this diagnosis. I would like to thank the members of the stakeholder reference group for their contribution to this important issue.

On 23 March 2017, I announced that the stakeholder reference group had reported back to me and that this government would implement its four recommendations in full—namely, medical examinations for former coalmine workers concerned they may have this disease and who retired or left the coalmining industry prior to 1 January 2017; ensuring workers with simple coal workers' pneumoconiosis who experience disease progression can apply to reopen their claim to access further benefits under the workers compensation scheme; extra rehabilitation support to assist workers back into suitable alternative employment; and streamlining workers compensation arrangements so they properly align with the Coal Mine Workers' Health Scheme.

On 29 May 2017, the parliamentary Coal Workers' Pneumoconiosis Select Committee that was established to inquire into the reidentification of coal workers' pneumoconiosis in Queensland issued its report *Black lung white lies*. I would like to take this opportunity to thank the committee for its comprehensive investigation into this matter. The report adopts the recommendations of the stakeholder reference group but with a minor variation for the medical examination process to apply more broadly to all coalmine dust lung diseases.

The Palaszczuk government introduced this bill to amend the Workers' Compensation and Rehabilitation Act 2003 to provide a new medical examination process for retired or former coal workers with suspected black lung or another coalmine dust lung disease—so the recommendation was accepted—with the costs to be borne by the employers responsible for the dust exposures through their

workers compensation premiums. This medical examination will enable former coal workers, who are concerned they may have this disease or are at a risk of exposure, to access medical testing at no cost to them.

The bill also introduces additional support for workers diagnosed with pneumoconiosis in the form of an additional lump sum of up to a maximum of \$120,000. The new lump sum payment is based on the grading of the worker's pneumoconiosis injury under the International Labour Organisation guidelines. The Palaszczuk government sought the advice of the leading expert in coal workers' pneumoconiosis, Dr Robert Cohen from the University of Illinois. Dr Cohen's advice informed the development of the scaling of the lump sum payments to workers with pneumoconiosis to ensure that payments appropriately reflect the relative severity of the worker's disease. The new lump sum payment will address concerns expressed by workers with early stages of the disease that they are entitled to compensation under the workers compensation scheme. It provides financial support for those workers who will require ongoing medical monitoring and rehabilitation due to the nature of this disease. The bill also clarifies that a worker with pneumoconiosis can access further workers compensation entitlements if they experience disease progression. This amendment will provide certainty for workers if their disease deteriorates in the future.

I would like to thank the Finance and Administration Committee for its consideration of the bill and its report tabled on 11 August 2017. I would also like to thank those who made submissions to the committee about the bill and those who appeared at the committee's public hearing. The committee made five recommendations, including recommendation 1 that the bill be passed by the parliament. I am pleased to table the government's response to the committee's report.

*Tabled paper:* Finance and Administration Committee: Report No. 44, 55th Parliament—Workers' Compensation and Rehabilitation (Coal Workers' Pneumoconiosis) and Other Legislation Amendment Bill 2017, government response [[1426](#)].

Recommendation 2 requested that I update the House on the progress to date in establishing and implementing an Australian B reader program. The Queensland government is committed to ensuring all workers compensation insurers in Queensland use the same cohort of doctors as those examining all coalmine workers' scans under the Department of Natural Resources and Mines health screening program. The Office of Industrial Relations is working with the workers compensation insurers to ensure this occurs. The Office of Industrial Relations is also working with the Department of Natural Resources and Mines to ensure there are sufficient Australian B readers to undertake the medical examination process.

Recommendation 3 requested that I provide clarity around the application of the common law 'once and for all' rule to sufferers of dust related diseases who have received compensation under common law where the disease progresses or the sufferer develops a new disease. The bill specifically addresses this concern by allowing the reopening of a statutory claim for pneumoconiosis to provide a worker with access to further statutory compensation where they experience disease progression. The bill does this without eroding the longstanding concept of a 'once and for all' for common law damages or permitting the reopening of a settled claim or award for common law damages.

Further, where a worker has been compensated and received damages, for example, for silicosis, and then later develops a new disease, such as lung cancer, in Queensland a worker is entitled to bring a new statutory claim for the injury and potentially common law action as the 'once and for all' nature of a common law claim applies only to the injury to which the previous settlement applies. There is a new claim and fresh evidence available.

Recommendation 4 is supported in part—in particular, to provide clarity on who bears the responsibility for medical examination costs for miners. The apportionment of workers compensation costs between different employers is already managed administratively by the scheme and is able to be effectively managed this way. Further, a protocol will be developed to provide a framework for apportionment of costs between WorkCover Queensland and the self-insurers to address these concerns. We will ensure that that protocol is developed properly and apportions costs appropriately.

The government agrees with the remainder of the committee's recommendation 4 that the bill be amended to clarify that all necessary and reasonable travel costs incurred to attend the medical examinations are not borne by the coal worker. It is the case that travel expenses were already factored into the costs for the medical examination and these costs were outlined to the Finance and Administration Committee at their public hearing on 10 July this year. However, an amendment to the bill is proposed to be moved—one amendment, member for Kawana—during consideration in detail to clarify that it is the responsibility of the insurer to cover the reasonable travel costs. This amendment will ensure that no worker will fear being out of pocket. This clarifies this issue. Just in case there is some doubt about who pays those costs, we have made it absolutely crystal clear in the amendment being put to the House.

Recommendation 5 requested that I provide clarity in relation to the transitional provisions in the bill. In summary, all new claims for pneumoconiosis made after the commencement of the bill will be entitled to: the new pneumoconiosis lump sum; statutory lump sum compensation; and where they experience future progression of their disease, to reopen their claim to receive a top-up of the new lump sum and their statutory lump sum compensation. For all pneumoconiosis claims accepted prior to the commencement of the bill, a worker will be entitled to the new pneumoconiosis lump sum payment as long as they have not yet had their permanent impairment assessed—this provision limits the new lump sum for pneumoconiosis to claims that are not yet finalised—and be able to reopen their claim to receive a top-up of the new lump sum and their statutory lump sum compensation where they experience future progression of their disease. Without these transitional provisions, workers with pneumoconiosis who have already made a workers compensation claim who experience a significant deterioration of their condition due to this disease would be prevented from accessing any further compensation under the workers compensation scheme. In effect, it gives them rights they would otherwise have been denied.

This bill also amends the Industrial Relations Act 2016 to make it clear that the power of the Queensland Industrial Relations Commission to order a stay in relation to appeals does not apply to workers compensation appeals. This important amendment will ensure that injured workers are not denied access to much needed income support, medical treatment and rehabilitation while awaiting the outcome of the appeals process. This amendment ensures that both employers insured with WorkCover and the self-insurers are on a level playing field when paying workers compensation entitlements. The granting of a stay decision against workers with an accepted workers compensation claim is contrary to the beneficial intent and operation of the workers compensation scheme, which seeks to provide support for vulnerable, injured workers in Queensland.

These amendments are not about incentivising or creating an additional benefit to self-insure against the main insurer of WorkCover. It now puts them on a level playing field. My understanding is that under both governments the wording has not changed. There was a decision recently which altered that. What we are doing is ensuring that both sides are treated equally and that not only is there the incentive to ensure that workers are adequately compensated but also there is no incentive to prolong a workers compensation claim, but to settle it quickly. We believe these amendments will do that.

The bill also amends the Electrical Safety Act 2002 to introduce mechanisms to improve the rigour of the electrical licensing framework. This includes implementing a coroner's recommendation by introducing provisions allowing the electrical safety regulator to immediately suspend an electrical worker's licence in specific and extremely serious circumstances in the interests of protecting the safety of others. Following the immediate suspension, the matter would be referred to the Electrical Licensing Committee, which currently has the powers and functions relating to disciplinary action for electrical licence holders.

The bill also ensures that the electrical safety regulator can obtain information about the competency of applicants for an electrical work licence. It will also allow the electrical licensing committee to direct an existing electrical work licence holder to undertake a competency reassessment where there are reasonable grounds to believe the licensee may not be competent. These amendments to the Electrical Safety Act are aimed at protecting workers and the public in general, whose safety may be affected by the electrical work carried out by licence holders.

With this bill, the Palaszczuk government delivers on another election commitment. We made a commitment to involve injured workers and families of persons who have died as a result of work incidents in a consultative committee. The bill establishes the Persons Affected by Work Related Fatalities and Serious Incidents Consultative Committee, which will provide advice on the information and support needs for persons affected by serious workplace incidents. People in this situation have a range of complex needs. The government agencies must recognise this when communicating with families and seriously injured workers. We should be able to go to work and come home safely. Likewise, we should all expect our loved ones to return home from work safely. In addition to the profound grief that comes with the loss of a loved one when there is a workplace fatality, there are other matters that can add to the burden such as liaising with government agencies about the investigation by the relevant regulator and any coronial inquest or claim for workers compensation. The interim consultative committee has already been able to help government agencies make improvements in addressing the support and information needs of the next of kin and seriously injured workers. I know that there are members of that committee in the gallery here this afternoon.

I would like to acknowledge and sincerely thank Michael and Lee Garrels, Paul Bailey, Jen Beveridge, Rachel Blee, Kevin and Christine Fuller, Dan and Debbie Kennedy, Bill Martin and Don and Julie Sager, and I recognise them in the gallery this afternoon. They have all shown great courage in sharing their stories with the wider community and in bringing greater awareness to the importance of

health and safety at work. It is my hope that establishing this consultative committee will see the positive work done by the interim committee continue and will ensure genuine and practical support is in place for people affected by work related fatalities and serious incidents.

I personally thank those in the gallery. They are passionate through their grief. I think they have delivered outstanding results. Many of the changes we see in the bill we are debating this afternoon are because of their advocacy, their strength and their courage. I want to passionately thank each and every one of them. As long as I remain Minister for Industrial Relations, I look forward to working closely with them on every opportunity that is made available. I thank them most sincerely.

For many, these reforms are a long time coming. As I said, I want to say thank you to everyone who has worked with this government to make our workplaces safe and our workers compensation scheme fairer. With that, I commend the bill to the House.