



Speech By  
**Hon. Grace Grace**


**MEMBER FOR BRISBANE CENTRAL**

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## **WORK HEALTH AND SAFETY 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) (4.09 pm): I move—

That the bill be now read a second time.

Every single Queensland worker deserves to return home safely after a day's work. That is what the community expects and that is what this bill seeks to achieve. Over the last 12 months the public has been shocked by a series of high-profile workplace tragedies that resulted in multiple fatalities. Just over a year ago two workers at Eagle Farm lost their lives on the job and weeks later a terrible tragedy at Dreamworld cost four visitors their lives. While these are not the only deaths to have occurred in Queensland workplaces, they resonated deeply with Queenslanders and the nation, who have rightly demanded action to prevent a repeat of these devastating losses. We owe it to the victims of these tragedies and their loved ones to ensure that Queensland has strong industrial manslaughter laws to protect people on the job backed by strong penalties for employers proven to be negligent. This is once again nation-leading legislation.

One of the great virtues of this bill is that it sends a clear message to corporations that negligence on their part will attract serious consequences. Some larger businesses are using complex corporate structures to evade their responsibilities, but this bill will plug this gap. Small, medium and big businesses should all be on the same footing when it comes to providing a safe work environment. No-one should be above the law. That is what this bill seeks to achieve. This is not about favouring unions, as those opposite claim; it is about saving lives and holding negligent employers to account. I take this opportunity to congratulate the union movement for its untiring work and advocacy in ensuring the health and safety of workers throughout this state.

This bill is part of our strategy to build a more effective deterrent to noncompliance with workplace health and safety laws. It aims to encourage a culture of safety, driven by all parties at the workplace. A credible and effective compliance and enforcement strategy requires support for voluntary compliance, along with a range of strong deterrent measures for serious offences.

One of the key elements in the bill is the introduction of the offence of industrial manslaughter. The general manslaughter offence in the Criminal Code applies to anyone who causes the death of another person. This includes an employer, senior officers of a corporation, or a worker and so on. However, with the changing industrial landscape and the emergence of increasingly elaborate corporate structures, it is exceedingly difficult to prosecute an employer for manslaughter given the difficulty of attaching criminal liability to the employer. Our intent is clear: if a work related fatality occurs and that fatality can be attributed to the negligence of a person conducting a business or undertaking or their senior officers, then the PCBU or senior officer should be able to be punished to the full extent of the law.

It is simply not good enough that a company and its senior officers can negligently cause the death of a worker and evade justice due to the veil of corporate anonymity. This failing in the current system is the reason the government has taken this initiative and why we are determined to make sure that these laws are implemented as soon as possible.

A fatality in a workplace is an extremely serious and devastating event, the impact of which extends far and wide—from the loved ones left behind to co-workers and the broader industry and community. It is not a minor transgression against health and safety duties that the industrial manslaughter provisions deal with; it is negligence that results in the loss of a worker's life. Through this bill the government will ensure that PCBUs and their senior officers can be held accountable for fatalities where their negligence causes the death of a worker and enables a more effective application of the law to corporate employers.

There is also of course an educative purpose in having a specific offence for industrial manslaughter. The offence sends a clear message about community expectations around safety in the workplace, saying that companies and the senior officers working for them must do all they can to ensure the safety of workers at their workplace. This awareness will encourage work health and safety to be managed as a cultural priority by persons conducting a business or undertaking, which is a proven strategy for improving health and safety outcomes.

There have been some concerns and criticisms raised by the industry about the impact of this new offence. In fact, I have met many of them about those concerns. However, it should be noted that these offences do not impose any new duties on employers or senior officers. Duty holders who adhere to their current responsibilities have nothing to fear from this legislation. The bill does not apply to circumstances beyond the control of a PCBU or senior officers but rather applies to negligent actions or omissions that contribute directly to the fatality of a worker. The creation of the offence ensures that corporations and their senior officers can be effectively prosecuted and held accountable for the worst examples of negligence.

The bill also prohibits the ability to accept enforceable undertakings in circumstances involving a fatality. While enforceable undertakings are undoubtedly an effective enforcement tool in achieving long-term sustainable health and safety outcomes in the workplace, when it comes to a fatality there is a community expectation that the regulator move to prosecute the offending party. Unfortunately, during my career I have encountered far too many families who have experienced the trauma of losing a loved one to a workplace incident. Dealing with this trauma is hard enough, but the thought that there be no prosecution for those responsible is often unthinkable. The regulator has already adopted a policy generally of not allowing enforceable undertakings in cases of fatalities and this now cements this practice in law. This reform is long overdue and I am proud to be introducing it this afternoon.

From a broader compliance and enforcement perspective, the changes in the bill also ensure greater independence and transparency in the dispute resolution and prosecutions processes in Queensland by providing the Queensland Industrial Relations Commission with additional powers and establishing an independent statutory office for work health and safety prosecutions. The establishment of an independent statutory office for work health and safety prosecutions will strengthen the governance arrangements for prosecution decision-making and boost public confidence in the independence and robustness of the prosecutions system.

Additionally, the expansion of the functions and jurisdiction of the QIRC will ensure that work health and safety disputes can be heard and resolved by an independent umpire when other avenues to achieve a resolution are unsuccessful. Enabling the QIRC to hear disputes under the Work Health and Safety Act 2011 ensures that issues can be resolved by a specialist workplace tribunal with an existing role in determining work health and safety matters. This will improve confidence in the dispute resolution process as well as the quality of dispute resolution decisions. This reform will empower the inspectorate in the decisions it makes and provide a clear determination for future decisions. These reforms will undoubtedly result in disputes being better resolved and in turn keep our workplaces safe.

The enforceability of workplace health and safety laws will also be enhanced by restoring provisions that require codes of practice to be complied with as a minimum standard. These amendments provide that codes of practice outline the minimum standards for managing work health and safety risks. Importantly, PCBUs will still be able to adopt alternative safety measures that provide the same or a higher level of protection against a risk. This ensures that technological advances and business innovations can be taken into account when determining compliance with health and safety duties. I thoroughly believe that restoring the codes of practice will give businesses certainty, because if businesses are prosecuted for an offence under the Work Health and Safety Act they can use the fact that they complied with the code as a defence in their prosecution. That provides certainty for a PCBU in its duty to provide a safe workplace for their employees. Additionally, to ensure that current industry

best practice is reflected in codes of practice, the bill requires codes of practice to be re-approved every five years. This ensures that the minimum standards in each code of practice are responsive to industry needs and continue to reflect best practice.

In addition to enhancing compliance and enforcement of work health and safety laws, the bill also seeks to improve work health and safety at the grassroots level by increasing the competency of and support for health and safety representatives and reintroducing the role of work health and safety officers. There is considerable evidence that the effective participation of workers is an essential element in improving health and safety performance at the workplace. Worker representation provides a means for facilitating consultation, involving workers and giving them a voice in health and safety matters. Mandatory training will support the role of HSRs in improving health and safety outcomes at the workplace by ensuring that they have the necessary skills and knowledge to effectively perform all of their functions. In particular, the ability to issue provisional improvement notices and direct unsafe work to cease are considered critical functions to assist HSRs in securing compliance at the workplace. The availability of a comprehensive list of HSRs will also enable the regulator to communicate directly with HSRs and provide relevant support and information.

The reintroduction of the workplace health and safety officer role, which is an employer assisting role, is also intended to encourage PCBUs to have a designated safety resource to support management in improving work health and safety performance across the organisation. Previously, the experience in Queensland was that the presence of work health and safety officers provided organisations with on-site awareness, expertise and advocacy for improved work health and safety outcomes and facilitated and assisted employers in ensuring legislative compliance. It is these benefits that have encouraged the government to reintroduce this vital role.

I would like to thank the Finance and Administration Committee for its report tabled on 5 October 2017 regarding the Work Health and Safety and Other Legislation Amendment Bill 2017 and, in particular, the chair of that committee, the member for Sunnybank. I would also like to thank other members of the committee and those who made submissions to the committee about the bill and those who appeared as witnesses as part of the committee's inquiry. Their input is much valued. The committee was unable to reach a consensus on the bill and did not make any recommendations regarding the bill.

In conclusion, I acknowledge that there will be many other speakers in this debate. However, I would like to take this moment to reflect on and recognise what we are debating today. At its core, this debate is about the lives of workers and ensuring that we do all that we can to prevent fatalities in Queensland workplaces. Although affected families will never get their loved ones back, they can take heart that, under these new laws, individuals or companies negligently responsible for their loved one's death will be held accountable and will not be able to avoid responsibility through elaborate corporate structures. I acknowledge some of the affected families in the gallery, in particular, Michael Garrels and Kevin Fuller.

The bill makes it clear that, as a society in Queensland, we do not believe that large corporations should be able to avoid responsibility and that we are prepared to meet our obligations to ensure the health and safety of all Queenslanders at work. This is the commitment that this government demonstrates through the introduction of this legislation. I commend the bill to the House.