




Speech By  
**Dale Last**

**MEMBER FOR BURDEKIN**

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### **MINES LEGISLATION (RESOURCES SAFETY) AMENDMENT BILL**

 **Mr LAST** (Burdekin—LNP) (12.01 pm): I rise to speak to the Mines Legislation (Resources Safety) Amendment Bill 2018, a bill that was introduced to parliament in March this year. I say at the outset that the LNP will not be opposing this bill. However, there are a number of concerns that I will highlight during my contribution here today including the adoption of recommendations from the committee that considered this bill.

The Mines Legislation (Resources Safety) Amendment Bill 2018 is an omnibus bill that includes amendments to the following legislation: the Coal Mining Safety and Health Act 1999 and the Mining and Quarrying Safety and Health Act 1999. These acts establish mining sector specific safety and health obligations that are distinct from general workplace obligations under the Work Health and Safety Act 2011.

Mining is an inherently dangerous business, if you would like to call it that, particularly as history shows that since 1882, when fatality figures were first recorded for Queensland coalmines, there have been 340 fatalities in that industry. It behoves all of us to ensure that safety regulations, procedures, processes and policy are of the highest standard and rigidly enforced when it comes to the resources sector and, in particular, mining.

The bill proposes to address 15 matters identified for improvement in the resources safety and health regulatory framework to increase worker safety and health. They include ensuring that the people appointed to ventilation officer positions are sufficiently skilled and improving inspector powers to allow for more appropriate workplace entry by adopting a similar approach to that used under the Work Health and Safety Act for entry to places. This will provide certainty regarding powers to enter and conduct inspections, investigations and audit compliance at all workplaces that have the potential to affect safety and health at mines. I note that the scope of entry for mines inspectors will continue to be limited by the objects of the acts and the functions of the Mines Inspectorate—that is, relating to safety and health matters concerning mines and as a result of mining operations.

Another matter includes ensuring that manufacturers, suppliers, designers and importers notify both the Mines Inspectorate and mine operators of any identified hazards or defects with supplied equipment and substances that they become aware of. This recommendation came from a coroner's inquest. It is important that we are cognisant of the recommendations that came out of that inquest and move to adopt those particular recommendations.

Contractors and service providers will be required to provide a copy of their safety and health plan to the SSE for consideration and integration, as appropriate, into the mine's single SHMS. With the appointment of an independent Commissioner for Mine Safety and Health in 2016, there is no longer an equal number of departmental representatives on the advisory committees. With regard to the Board of Examiners, two of the inspector appointments to the Board of Examiners would also be by position rather than by name of the individuals appointed to those positions.

It is proposed that SHMS requirements be introduced for opal or gemstone mines with five to 10 workers to enable operators to achieve an acceptable level of risk. I know that my colleagues from the electorates of Warrego and Gregory will speak further to that particular issue given the number of those types of mines in their respective electorates.

It is proposed that amendments be made to the CMSHA and MQSHA to allow the Board of Examiners to keep a register of certificates of competency, SSE notices and notices of registration given by the board under the Commonwealth Mutual Recognition Act 1992. This will enable persons such as mine operators or SSEs to determine if a person holds a valid certificate or notice. Other matters identified were that health assessment and health surveillance for prospective, current and retired industry workers should both be included in how the objects of the MQSHA are to be achieved, as well as the notification of diseases.

The Mining Safety and Health Legislation (Coal Workers' Pneumoconiosis and Other Matters) Amendment Regulation 2016 commenced on 1 January 2017 in response to the reidentification of coal workers' pneumoconiosis in the Queensland coal industry. The amendment regulation prescribes certain occupational diseases under the CMSHR and the MQSHR, which requires an SSE to notify the Mines Inspectorate when they become aware of an occurrence of a prescribed disease.

Coal workers' pneumoconiosis, or black lung disease, was rediscovered in Queensland in 2015. Coal workers' pneumoconiosis is a type of pneumoconiosis solely caused by prolonged exposure to coalmine dust. More than 20 miners have been confirmed to have the disease since the rediscovery, and 54 have been diagnosed with some form of miners' dust disease. For 30 years the state's mining industry was thought to have been rid of this particular disease. Miners suffering black lung disease will now have access to significant workers compensation, as they should, although it has been a long time coming.

The *Black lung white lies* parliamentary committee report into black lung disease found catastrophic failings in public administration in Queensland. The committee found that there has been a catastrophic failure at almost every level of the regulatory system intended to protect the health and safety of coal workers in Queensland.

While the LNP welcome this sensible legislation, the government's track record in responding to black lung has been lethargic and unacceptable. The Labor Party refused to listen to their very own Labor member for Bundamba, Jo-Ann Miller. Furthermore, last year the CFMEU called for Minister Lynham to resign over his 'insensitive and inadequate response' to the Queensland inquiry into black lung disease, including questioning the scientific evidence for lower dust levels.

The *Black lung white lies* report delivered in May 2017 recommended the government establish the authority in Mackay to oversee mine safety and hygiene, conduct medical research and training, and provide medical specialists to diagnose and treat mine dust diseases. Miners are still waiting for the Premier to come good on her commitment to establish the mine safety and health authority in Mackay more than a year after it was promised. It is a betrayal of workers to promise action on an issue as critical as mining safety and then let a year pass with no action. Miners' health and safety must come before the bureaucracy, and delays in delivering this initiative are simply unacceptable.

The bill is designed to outline a regulatory framework to ensure that every worker goes home safely by delivering additional safety and health measures. The timely release of safety information by regulators—for example, safety alerts about incidents—enables industry to implement key learnings in a timely manner. The recent fire at North Goonyella mine is a good example where the timely release of information has made a real difference. The mine owner, Peabody Energy, upon becoming aware that there was a fire at the mine, immediately closed the mine, evacuated all personnel and implemented emergency procedures to control the fire. The release of information has kept all stakeholders apprised of the situation at the mine including not only measures taken to control the fire but steps taken to have mining operations recommence at a future date.

I note that maximum penalties under the CMSHA and MQSHA have not been increased since 2007 and are significantly lower than the penalties prescribed in the Work Health and Safety Act. Greater consistency can be achieved by adopting the maximum penalties under the Work Health and Safety Act and by adopting subcategories for officers in addition to other individuals where relevant.

There is a need to ensure that an officer exercises an appropriate level of due diligence commensurate with the position and influence of the officer. In applying mining safety and health obligations on officers under the CMSHA and MQSHA, it needs to be made clear that these obligations are specifically placed on the officer and do not apply to a person appointed as, or whose position reports directly or indirectly to, the SSE for a mine.

The Board of Examiners issues certificates of competency for life, which may compromise the currency of the necessary competency. To maintain the certificate, ongoing professional development is necessary to ensure the holder continues to maintain an appropriate level of competency. The amendments as proposed will clarify that the functions of the Board of Examiners are not limited to deciding only the competencies necessary to hold a certificate of competency but also extend to deciding matters pertaining to the continuing professional development of certificate of competency holders.

Persons in safety critical roles at mine sites are required under the CMSHA and MQSHA to hold a certificate of competency issued by the Board of Examiners or obtain units of competency for the role of SSE. I note that the chief executive will now have the ability to suspend or cancel a certificate of competency or notice where the holder has contravened a safety and health obligation under the CMSHA and MQSHA or has committed an offence against mining safety legislation in Queensland or another state or territory, as should be the case. Importantly, a person will be afforded natural justice and a right to respond before a decision to suspend or cancel is made. Civil penalties are necessary to provide for action to be taken to address noncompliance. They may applied where a breach requires direct redress and is sufficiently significant to warrant a substantial financial penalty. This could include a failure to fulfil an obligation or requirement that has the potential to significantly impact the safety and health of persons at the mine.

I note the committee has recommended that the bill be passed with the following recommendation: that the bill be amended to include a definition of 'contractor'. I note that the minister spoke to this recommendation. He indicated with regard to this particular recommendation that there is further work to be done regarding that term and the difficulties associated with defining exactly what a contractor is. However, given that this bill was introduced in March this year and the importance of the term and what it means at mine sites in terms of contractors working on mine sites—as we all know, they are an integral part of mining operations—I would have thought at this stage we would have a definition of 'contractor' in this bill. I certainly hope that the minister is going to give us some time frames and a commitment as to when that particular definition will be clarified and incorporated into this bill.

I also note that the committee recommends that the minister consider amending the bill to require that site senior executives be notified on a confidential basis of relevant cases of reportable diseases to allow them to ensure that the risks to the health and safety of the employees are at an acceptable level. Whilst I can appreciate there are privacy provisions, would it not make sense that site senior executives be notified when their employees contract diseases such as black lung? Would it not be practical and common sense to ensure that senior staff are aware of that so they can deal with the issue and mitigate that happening again? Those on this side of the House are very concerned that that recommendation is being incorporated into this bill.

I note that the Queensland Law Society in its submission suggested that the bill be amended to include a declaratory statement to the effect that a criminal prosecution cannot be pursued after a civil penalty may have been imposed for the same noncompliance. I ask the minister to address that particular concern during consideration in detail.

We have a resurgent mining sector at the moment. Most of the coalmines in Queensland are in my electorate of Burdekin. This sector has absolutely turned around in the last 12 months. We can see it firsthand when travelling through the coalfields. We can see it from the activity and the development of new mines, and the expansion and ramping up of operations in current mines in that area. It is very important that we get this safety issue sorted out and that going forward they are in place regarding the operation of these mines to ensure the safety, health and wellbeing of all our miners.

The LNP is committed to holding this government to account when it comes to our miners' health and wellbeing. We support laws that protect our miners' legal right to a safe workplace. It is certainly our hope that this bill is a step in the right direction in ensuring our miners have a safe workplace.