




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNEL

Record of Proceedings, 22 August 2019

**WORKERS' COMPENSATION AND REHABILITATION AND OTHER
LEGISLATION AMENDMENT BILL**

Introduction

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (11.24 am): I present a bill for an act to amend the Further Education and Training Act 2014, the TAFE Queensland Act 2013, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes, and to repeal the Commonwealth Games Arrangements Act 2011. I table the bill and explanatory notes. I nominate the Education, Employment and Small Business Committee to consider the bill.

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019 [1321](#).

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019, explanatory notes [1322](#).

Today I am pleased to introduce the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019 into the House. Queensland can rightly claim to have the best workers compensation scheme in the country. The scheme has delivered the lowest average premium rate of any state or territory for six years in a row now—at \$1.20 per \$100 of wages paid. Over the past two years, employers have enjoyed premium savings of over \$75 million, thanks to measures the Palaszczuk government has introduced such as the early payment discount—up from three per cent to five per cent—and the premium discount for employers who take on apprentices, meaning no premiums are paid. We have achieved all this while also delivering other significant beneficial reforms, such as the National Injury Insurance Scheme, which provides no-fault lifetime care and support for workers who suffer a catastrophic injury at work, and restoring the rights of all injured workers to access common law damages that were curtailed by the LNP when it was in government by introducing a five per cent threshold to common law rights.

With this bill before the House today, we are making the best workers compensation scheme in the country even better, with a package of sensible and practical improvements that give effect to the recommendations from the most recent five-yearly independent review into the Queensland workers compensation scheme by Professor David Peetz from Griffith University. In March 2018, I commissioned Professor Peetz to conduct the second legislated five-year review of Queensland's workers compensation scheme. The terms of reference for the review included reporting on the performance of the scheme in meeting the objectives under the Workers' Compensation and Rehabilitation Act 2003, reporting on emerging issues facing the scheme, and reporting on the effectiveness of current rehabilitation and return to work programs and policy settings, including ways to improve Queensland's return to work rates. The review included targeted consultation and written submissions from key stakeholders, including unions, employer and legal representatives, medical and allied health associations, and insurers.

Professor Peetz finalised his review on 27 May 2018, making 57 recommendations in total, of which 15 would require legislative amendment if adopted. The review found Queensland's workers compensation scheme is performing well, is financially sound, involves low costs for employers and provides fair treatment for both employers and injured workers whilst providing unlimited common law rights for all injured workers and their families. While the review found no case for changing the core architecture of the current scheme, opportunities for improvement were identified in areas such as rehabilitation and return to work outcomes and the workers compensation process and experience for injured workers, especially those with psychiatric and psychological injuries.

On 29 June 2018 I tabled a copy of the report in parliament and since then the government has been working closely with a stakeholder reference group comprising employer representatives, unions, insurers, medical and allied health associations and the legal community to ensure each of the 15 recommendations were thoroughly considered. The stakeholder reference group has met six times since September 2018 and I thank the members of that group for their invaluable contributions.

Following this extensive consultation process, the bill before the House today will address 12 of the 15 legislative recommendations made by the review. The remaining three legislative recommendations from the review relate to the potential extension of workers compensation coverage to workers in the gig economy. Following consultation with the stakeholder reference group, it was decided that these three recommendations should be considered separately, along with a further issue raised by stakeholders concerning workers compensation coverage for bailee taxi and limousine drivers. A consultation regulatory impact statement was released in June 2019 seeking public feedback on these matters. Submissions and feedback from this consultation process are currently being considered.

I turn now to key provisions in the bill. The bill will deliver a number of important changes to the workers compensation scheme that assist injured workers with their rehabilitation and return to work. At present, injured workers are entitled to rehabilitation and return-to-work support from the insurer and employer while they are receiving compensation under the scheme. However, the review identified that once an injured worker's entitlement to compensation ceases, for example because they receive their notice of assessment and they accept a lump sum payment, their access to rehabilitation and return-to-work support comes to an end, even though the worker may still not be able to work because of their injury. This limits the achievement of durable and meaningful return-to-work outcomes.

To address this identified gap in workers' entitlements to rehabilitation and return-to-work support, the bill amends the Workers' Compensation and Rehabilitation Act to introduce a mandatory requirement for insurers to provide ongoing rehabilitation and return-to-work services in cases where the injured worker has not yet been able to return to work because of their injury after their statutory entitlement has ceased.

This amendment will ensure that the rehabilitation progress of many workers is not interrupted or stopped when they may benefit from return-to-work programs during or at the end of their statutory claim and give those workers every reasonable opportunity to achieve a durable return to work. In addition, injured workers will have the right to request referral to an accredited rehabilitation and return-to-work program at any stage during their statutory claim and insurers will have the ability to refer a worker to an accredited program at any earlier stage in the claim process. Together, these changes seek to achieve better outcomes for workers' overall health and recovery and will help to improve Queensland's return-to-work rate.

The bill will also improve the capability of employers to help rehabilitate injured workers. Employers who are required to appoint a rehabilitation and return-to-work coordinator will, under this bill, also now be required to submit to their insurer details demonstrating how their coordinator is appropriately qualified to undertake their role. This could include showing evidence that the coordinator has completed a training course or qualification approved by the Workers' Compensation Regulator. This new requirement addresses a concern from stakeholders that the skill level of rehabilitation and return-to-work coordinators has reduced since the requirement for accreditation was removed in 2013 by the Campbell Newman government. The amendments are intended to increase the skill level of rehabilitation and return-to-work coordinators and will enable the regulator to undertake targeted compliance and education activities with coordinators, ensuring that resources are focused on the greatest areas of need.

The bill also delivers on the review's recommendations to better support vulnerable workers who have been diagnosed with a psychological or psychiatric injury. Early intervention for these types of injuries assists to minimise the impact and duration of an injury, resulting in reduced claims costs and

improved return to work. However, if there is a delay in this support being provided because the claim is still being determined, and the inherent nature of these claims means they often take longer to decide than injuries of a physical nature, then this can often make things worse for the affected worker.

To address this, the bill amends the Workers' Compensation and Rehabilitation Act to require that insurers must take all reasonable steps to provide reasonable support services to workers with a psychological injury prior to the determination of their claim. This will ensure workers receive timely support and necessary treatment when it is needed—improving return-to-work outcomes with lower long-term medical and rehabilitation costs. It will also provide incentives for claims to be decided in reasonable timeframes.

The bill also implements the review's recommendation to restore the previous definition of 'psychological injury' so that the worker's employment has to be a significant contributing factor to the injury, rather than the Campbell Newman government's amendment that it be the major significant factor. This amendment will ensure consistency in the way that physical and psychological injuries are treated within the workers compensation scheme and brings Queensland into line with the approach taken by all other jurisdictions.

Other key amendments in the bill to implement the Peetz review recommendations include clarifying that WorkCover Queensland can fund and provide programs and incentives encouraging employers to improve health and safety performance after consulting with the relevant health and safety regulators; exempting expressions of regret and apologies provided by employers following a workplace injury from being considered in any assessment of damages under the Workers' Compensation and Rehabilitation Act. This aligns with the approach taken in the Civil Liability Act 2003. Some workers often only want an apology from their employer for what has occurred to them and their family.

Further recommendations include extending workers' compensation coverage to unpaid interns; requiring self-insured employers to report payments and any injuries to their insurer to align with the current requirements imposed on all other employers; and clarifying that insurers have a discretion to accept claims more than six months after the injury is diagnosed if the injured worker has lodged a claim within 20 days of developing an incapacity for work from their injury. This amendment addresses an important point made by the review that workers with chronic, insidious or psychiatric injuries, for example, may at first attempt to manage their injury at work and it is not until sometime later as their injury deteriorates that they become incapacitated for work and think about lodging a claim. It fixes that gap.


The bill also makes some further amendments for regulatory simplification and clarification. I make particular note of the amendment to extend access to the latent onset terminal payment entitlements under the Workers' Compensation and Rehabilitation Act. The act currently provides that a worker who has a terminal condition as a result of their employment, for example dust lung diseases such as asbestosis, silicosis and coal workers' pneumoconiosis, or a work related cancer such as a specified cancer sustained by a firefighter, has an entitlement to a statutory payment of up to \$743,041. The payment of this lump sum allows the worker to be provided with palliative care and support and ensures that the worker can plan and attend to the financial needs of their family and dependents. The worker retains their rights to seek common law damages for negligence contributing to the worker's terminal condition, however, for some workers the prompt assessment and payment of this statutory entitlement may alleviate the need of the worker to seek common law damages and allow the worker to spend more time with their family.

Under the act currently, a terminal condition is defined as a condition certified by a doctor as being a condition that is expected to end the worker's life within two years after the terminal nature of the condition is diagnosed. However, some workers are diagnosed with a terminal work related condition with a life expectancy greater than two years which means they have been excluded from accessing this payment. The amendment addresses this by removing the reference to the time period restriction of two years. This is an important amendment for those who need it most and a great step forward in that area.

In addition to amendments to the Workers' Compensation and Rehabilitation Act, the bill also repeals the Commonwealth Games Arrangements Act 2011 following the successful delivery of the Gold Coast 2018 Commonwealth Games and the dissolution of the Gold Coast 2018 Commonwealth Games Corporation; amends the Further Education and Training Act 2014 to enable the Department of Employment, Small Business and Training to assist stakeholders in achieving more equitable outcomes in contested cancellations, temporary suspensions or inadequate training; and amends the TAFE Queensland Act 2013 to establish a more representative TAFE Queensland Board to support quality training outcomes for all Queensland stakeholders.

The changes I have outlined under this bill will continue to ensure that Queensland's workers compensation scheme is the nation's leading scheme by further improving injury management, rehabilitation and return-to-work outcomes for injured workers, while maintaining the lowest average premium rate of any state or territory workers compensation scheme. Once again, the Palaszczuk government is delivering for Queensland workers and their families and employers in all industries.

First Reading

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (11.40 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to Education, Employment and Small Business Committee

Mr DEPUTY SPEAKER (Mr Whiting): In accordance with standing order 131, the bill is now referred to the Education, Employment and Small Business Committee.