Speech By

Hon. Grace Grace

MEMBER FOR MCCONNEL

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WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. G GRACE (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (12.14 pm): I move—

That the bill be now read a second time.

The bill before the House today is about 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 of the five-yearly review of the workers compensation system conducted by Professor David Peetz in 2018. Before turning to the details of the bill, I first thank the Education, Employment and Small Business Committee—particularly the chair, the member for Nudgee, who does an excellent job, and all the members of that committee—for its report on the bill tabled on 8 October 2019. I also thank all the organisations that made written submissions to the committee and those who appeared to give evidence to the inquiry. I am pleased that the committee has made one single recommendation—that the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2019 be passed. It is certainly a bill that deserves bipartisan support.

As I said, the bill gives effect to the government's response to the second five-year review into the operation of Queensland's workers compensation scheme which was undertaken by Professor David Peetz from Griffith University. I sincerely thank Professor David Peetz, who did an excellent job on the five-yearly review. The review made 57 recommendations in total, including 15 proposed legislative amendments. There has been significant consultation undertaken to develop the bill. A stakeholder reference group including representatives of employer associations, trade unions, the legal community, allied health associations, WorkCover Queensland and self-insurers was formed to advise the government on how best to implement the recommendations of the Peetz review.

The stakeholder reference group met on six occasions to consider and discuss each of the legislative recommendations. Stakeholders were also provided with opportunities to provide written submissions and feedback to specific issues raised at the meetings as well as being provided with consultation drafts of the bill. I take the opportunity to thank all representatives of the stakeholder reference group for their important and valued contributions.

A key focus of the bill is to assist workers with physical and psychological injuries when they are at their most vulnerable. The bill achieves this by making important changes to the way that injured workers are supported while their workers compensation claim is being determined and during their rehabilitation and return to work. One of these critical changes is to amend the definition of a psychiatric or psychological injury so that a worker's employment only has to be a significant contributing factor to the injury rather than the current requirement for it to be the 'major' significant contributing factor—a

small word but a great impact on injured workers. The current definition introduced by the Newman government in 2013 sets a different work-relatedness test for psychological injuries compared to physical injuries. Queensland is the only jurisdiction in the country to do this.

The Palaszczuk government believes that all injuries, whether physical or psychological, have an equal impact on the worker's ability to undertake work and should not be treated differently. This amendment rights that wrong, restoring consistency in the way that physical and psychological injuries are treated within the workers compensation scheme and bringing Queensland back into line with the approach taken by other jurisdictions. In addition to this important amendment, the bill will also provide better support to workers suffering from psychological or psychiatric injuries. The bill does this by including a new requirement for insurers to provide reasonable support services to workers with a psychological injury while and prior to their workers compensation claim being determined. This is important because, while the time period to determine claims for physical injuries is on average less than two weeks, the average time to decide often more complex psychological injury claims is more than six weeks.

Access to support services is critical during this early period, before their claim is accepted or not. Without it, the end result for workers and employers can be increased time off work, increased medical and rehabilitation costs and, often, poorer return-to-work outcomes because they are not getting support and assistance early enough. This new requirement will ensure early intervention for those with psychological or psychiatric injuries, minimising the impact and duration of their injury. In turn, this is likely to lead to reduced claim costs and improved return-to-work outcomes, which is exactly what we hope to see. I note that the bill will also ensure that the costs of providing early intervention will only be borne by employers should the claim be subsequently accepted.

The bill also provides a new discretion for insurers to accept claims made more than six months after the injury event in circumstances where workers have chronic, insidious or psychiatric injuries and attempt to manage their injury at work before deteriorating and taking time off. This amendment does not provide an automatic right to make an application outside of the normal time limit. Rather, it allows the insurer to exercise discretion to accept a claim outside of the normal time limit if specific criteria are met. This acknowledges that it is preferred that a worker apply for compensation as soon as possible after the event but also recognises that sometimes workers confronted with a challenging work related injury decide to continue working while able to do so. It is not until sometime later, as their condition deteriorates, that they become incapacitated for work and think about lodging a claim. Reasons for the delay might include workers not wanting to acknowledge that they have an injury because of social or workplace stigma, or workers not wanting to inconvenience their employer with a workers compensation claim. These are normal human responses that should not result in disadvantage to the worker and their family. That is why we have made this amendment.

The bill will also extend workers compensation entitlements to unpaid interns by considering them as workers under the act. The Peetz review found that a growing number of businesses are choosing to engage unpaid interns to perform work that might otherwise be done by paid employees; however, few of these unpaid interns have the same protection as workers, such as workers compensation coverage. Unpaid interns must currently rely on accessing the employer's public liability insurance if they are injured at work and can prove fault. Unpaid interns are also required to independently provide their own coverage for injuries sustained on journeys or recess breaks unless they are the result of the negligence of another party. The current situation is clearly unfair and unjust and is a burden on predominantly young people trying their hardest to enter the workforce. The bill addresses this, in line with the recommendations of the Peetz review, by ensuring unpaid interns have the same protections as paid workers in terms of workers compensation. Obviously, workers compensation is a no-fault scheme and they will be fully covered.

The bill provides a renewed focus on ensuring that rehabilitation and return-to-work coordinators are appropriately qualified. Large employers and high-risk employers are currently required to appoint an appropriately qualified person to undertake the functions of a rehabilitation and return-to-work coordinator. In 2013 the Newman government removed the requirement for these coordinators to complete an accredited course. Stakeholders are of the view that the skill level of coordinators reduced following this change and, as a result, injured workers are not being adequately supported in achieving early and durable return to work after an injury. To address this, the bill will require employers to notify their insurer of who their coordinator is, what workplaces they have responsibility for and how they are appropriately qualified for the work being undertaken at those workplaces. This will facilitate more effective communication with the coordinators and enable the regulator to undertake targeted compliance and education with coordinators, supporting them in undertaking their important role.

Rehabilitation and return to work is a fundamental part of this act. When a worker is injured—the awards during Safe Work Month in October showed this—they are so eager to return to work and prove any diagnosis they have incorrect. For example, the winner of our rehabilitation award was told that he could never walk again, but he walked on stage to receive his award. It is imperative that we have qualified people as coordinators who do the right thing by injured workers and ensure they have a smooth transition back to work following an injury. Having the right qualifications is necessary to support injured workers in the right way—not set them back by sending them back to work either too early or too late but work with them—with experience and knowledge, to ensure there are effective rehabilitation and return-to-work policies and practices operating in the workplace. I commend Professor Peetz on this particular recommendation.

I will refer to other key features of the bill as previously highlighted in my introductory speech. The bill will clarify that WorkCover Queensland can fund and provide programs and incentives encouraging employers to improve health and safety performance after consulting with the health and safety regulator. At the moment the act is a bit grey in this area. We want to make it perfectly clear that they have the ability to undertake this role. The bill will exempt expressions of regret and apologies provided to employees following workplace injury from being considered in any assessment of damages under the workers compensation act, allowing employers to say the three simple words that many injured workers desperately want to hear: 'I am sorry'.

The bill will introduce a mandatory requirement for insurers to continue providing rehabilitation and return-to-work services in cases where the injured worker's statutory entitlement has ceased but they have not yet been able to return to work. This is an important amendment, ensuring these workers are given every reasonable opportunity to achieve a durable return to work by providing that their rehabilitation support is not ended prematurely when their statutory claim ends. This is often a timing issue. Workers often feel that they are left stranded. Hopefully, we can address their concerns with this change. The bill will ensure that all workers diagnosed with a terminal work related condition have access to lump sum statutory payments under the act, removing the current provision that denies access to some workers with a terminal condition if their life expectancy is greater than two years.

The bill will also amend the Further Education and Training Act 2014 to enable the Department of Employment, Small Business and Training to assist stakeholders to achieve a more equitable outcome in the apprenticeship and traineeship system in Queensland. The amendments will help apprentices, trainees, training providers and employers in the event of contested cancellations, temporary suspensions or inadequate training. Since the proclamation of the Further Education and Training Act in 2014, stakeholders have raised concerns regarding contested cancellations, temporary suspensions and training delivery modes. These concerns are consistent with the findings from four Queensland ministerial round tables; *Review of group training arrangements in Queensland*, released by the Queensland Training Ombudsman in 2018; and the Jobs Queensland report *Positive futures: apprenticeships and traineeships in Queensland*.

Young people entering into an apprenticeship or traineeship need to know the contract is fair and that they will be treated fairly throughout their training. This bill addresses a gap in the current legislation where there is no provision for the chief executive to decide contested training contract cancellations before an apprentice or trainee's employment is terminated. The bill will enable the department's chief executive to make the final decision on training contract cancellation applications initiated by just one party. It will enable all parties to make a submission to the chief executive which under fair procedures will be appealable through the Queensland Industrial Relations Commission. The bill introduces a temporary suspension provision relating to previous provisions under the Vocational Education, Training and Employment Act 2000 which allowed for the temporary standdown of an apprentice or trainee from the apprenticeship or traineeship.

Other important amendments consolidate the requirement for a supervising registered training organisation to complete an employer resource assessment to determine the capacity of an employer to train an apprentice or trainee under a training plan. The bill also allows the chief executive to amend the delivery mode of the training plan if there are concerns over the quality of the training. We want to ensure that quality training is the outcome for apprentices and trainees. This may come out of inappropriate delivery for the training—for example, online delivery when face-to-face training is more suitable. With regard to trades, a lot of the time we want to know that the apprentice or trainee has had experience in doing that trade. I guess I would not want anyone to cut my hair if they had learned how to become a hairdresser online.

The bill also amends section 12 of the TAFE Queensland Act 2013 to establish Aboriginal and/or Torres Strait Islander representation on the board of TAFE Queensland. This provides for the input of Aboriginal and Torres Strait Islander peoples to strategic decision-making, contributes to the leadership

and the functions of the board, and for TAFE Queensland to benefit from Aboriginal and Torres Strait Islander knowledge and perspectives. We want to engage with Aboriginal and Torres Strait Islander communities right throughout Queensland and I believe that this change will make a significant way forward for us to do that. The bill will ensure there must be at least one person on the board representing Aboriginal and/or Torres Strait Islander people. It is fitting that the governing board of TAFE Queensland demonstrates leadership in meeting the needs of diverse communities.

The Palaszczuk government is once again delivering for all Queenslanders through this bill. The changes to the workers compensation scheme will ensure Queensland continues to have 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. I once again commend Professor Peetz for his report in conducting the five-yearly review. I commend the committee and the member for Nudgee for their role in examining this bill. I commend the bill to the House.