




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNEL

Record of Proceedings, 17 April 2024

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

Message from Governor

 **Hon. G GRACE** (McConnel—ALP) (Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing) (11.38 am): I present a message from Her Excellency the Governor.

Mr DEPUTY SPEAKER (Mr Lister): The message from Her Excellency the Governor recommends the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

WORKERS' COMPENSATION AND REHABILITATION AND OTHER LEGISLATION AMENDMENT BILL 2024

Constitution of Queensland 2001, section 68

I, DR JEANNETTE ROSITA YOUNG AC PSM, Governor, recommend to the Legislative Assembly a Bill intituled—


A Bill for an Act to amend the Industrial Relations Act 2016, the Labour Hire Licensing Act 2017, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes

GOVERNOR

Date: 17 April 2024

Tabled paper: Message, dated 17 April 2024, from Her Excellency the Governor recommending the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024 [593](#).

Introduction

 **Hon. G GRACE** (McConnel—ALP) (Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing) (11.39 am): I present a bill for an act to amend the Industrial Relations Act 2016, the Labour Hire Licensing Act 2017, the Workers' Compensation and Rehabilitation Act 2003 and the Workers' Compensation and Rehabilitation Regulation 2014 for particular purposes. I table the bill, the explanatory notes and a statement of compatibility with human rights. I nominate the Housing, Big Build and Manufacturing Committee to consider the bill.

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024 [594](#).

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024, explanatory notes [595](#).

Tabled paper: Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024, statement of compatibility with human rights [596](#).

I am proud to introduce the Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024 into the House. This bill gives effect to legislative recommendations made by the 2023 review of the operation of the Queensland workers compensation scheme. The Workers' Compensation and Rehabilitation Act 2003 requires the responsible minister to ensure a review of the operation of the workers compensation scheme is completed at least once in every five-year period. The 2023 review report was tabled in the Queensland parliament on 4 October 2023, which fulfils this legislative requirement. The review was conducted by independent reviewers: former Queensland Industrial Relations Commissioner Ms Glenys Fisher, and Emeritus Professor of Employment Relations at Griffith University David Peetz. The independent reviewers brought extensive expertise to the review, and I sincerely thank them for their thorough and considered work.

The terms of reference of the review relate to: the performance of the scheme in meeting the objectives of the act; emerging issues facing the scheme; the effectiveness of current rehabilitation and return-to-work programs and policies; the management of mental injuries in the scheme; and any national reviews or regulatory proposals relating to gig workers and insecure work which should be taken into account by the government in its consideration of extending the scheme to gig workers.

The review found that the scheme remains strong and, while major reform was not recommended, it identified emerging trends which may impact the scheme's performance and viability. It found that the scheme is well placed to respond to these trends, which include: a rise in psychiatric and psychological injury claims, including secondary psychiatric and psychological injury claims; lower rehabilitation and return-to-work performance compared to other Australian workers compensation jurisdictions; and delays in administrative decision-making.

I would like to extend my thanks to all stakeholders who have participated in consultation during the review of the act and in the development of this bill. The reviewers invited key stakeholders to make submissions and to meet with them. A total of 31 meetings were held by the reviewers, and 45 submissions were received.

Since the review was completed, my department has been working closely with a stakeholder reference group comprising representatives from registered industrial organisations, insurers and representatives of the medical, allied health, legal professions and gig businesses. The stakeholder reference group has met seven times since November 2023 to consider policy proposals arising from the recommendations of the review and development of this bill, and I thank the members of that group for their important contributions.

I turn now to key provisions in the bill which implement the legislative recommendations of the 2023 review. The bill continues this government's proud record when it comes to providing support and care for injured workers and their families, and improving our nation-leading workers compensation scheme. The Queensland scheme is one of the best in the nation. It is one of the best performing in the nation, and this government intends to keep it this way.

It was this government in 2015 which introduced deemed disease provisions for certain latent onset diseases for current or former firefighters. These changes were made in recognition that there is carcinogenic occupational exposure in the firefighting profession. Under those amendments, if a firefighter develops one of 12 specified cancers and meets the qualifying period of active firefighting service, then the cancer will automatically be deemed to be work related. In other words, they do not have to prove work causation; it is deemed to be work related.

This bill takes into account the latest medical and scientific evidence and expands the number of deemed diseases from 12 to 22. These include primary site cancers for liver, lung, skin, pancreatic, penile and thyroid. Importantly, the bill also includes cervical and ovarian cancer in recognition of the increasing number of women choosing firefighting as a calling or as a volunteer, as noted by the review. Congratulations to our female firefighters as well. The bill also makes improvements to qualifying periods, including reducing the qualifying period for primary site oesophageal cancer to 15 years and clarifying that the calculation for the minimum qualifying period includes periods of day work rotation. This is technical but necessary.

I would like to take this opportunity to recognise the advocacy of the United Firefighters Union Queensland on this important issue. These changes mean that Queensland will have the most comprehensive list of firefighter deemed diseases of all workers compensation jurisdictions in the country. Importantly, it allows claims to be processed more quickly, reduces the administrative burden on the firefighter and gives workers access to payments and care when they need it most. The Miles government will always back our brave fires.

The bill also implements the government's decisions, as explored in the decision impact analysis statement, on whether to extend workers compensation coverage to workers in the gig economy and to bailee drivers in the taxi and limousine industry. It is the top priority of the Miles government that every worker should be able to go to work and come home safely at the end of each shift. I often say that workers sell their labour, not their health.

The government recognises that gig workers who become injured at work do not have the same workers compensation protections as other workers and that intervention may be required to address this problem. It all comes from what is the definition of a 'worker', and that is the question that is often unanswered.

The decision impact analysis statement determined that, while coverage of gig workers would be beneficial to those workers, there is a need for flexibility for the government when regulating the workers compensation status of this cohort. This reflects the fact the legal status of various gig workers will be determined under new Fair Work Commission powers to regulate workers and businesses in the gig economy.

To provide the ability to respond to these determinations, the bill inserts a narrow head of power into the act that enables a regulation to prescribe who is a 'worker' and 'employer' where an individual has been determined to be a 'regulated worker' by the Fair Work Commission. Therefore, this amendment will only take effect once the Fair Work Commission begins to exercise these new powers and determinations are made. This approach allows the Queensland government to be appropriately guided by decisions at the national level on the legal status of gig workers which will provide certainty and consistency for industry.

If the government proposes to make a regulation, comprehensive public consultation along with regulatory impact analysis will be undertaken to ensure there are no unintended consequences. This would include: consideration of the terms of the relevant minimum standards order; minimum standards guideline or collective agreement made by the Fair Work Commission; any existing insurance arrangements in that industry; and impacts on scheme sustainability, regulatory burden, compliance costs and other impacts on business and industry. The decision impact analysis statement also determined not to extend coverage to bailee taxi and limousine drivers at this time, after taking into account the longstanding and well-established safety and industry insurance arrangements for bailee drivers. The gig worker area is a complicated area. It manifests itself in many ways out there in industries. We need to take a balanced and serious approach. I think the Fair Work Commission's determinations in assessing where we go further by regulation is the best place for this at this point in time.

I am proud that the bill strengthens and promotes workers' rights in the scheme. It explicitly includes the right of a worker to choose their own treating medical practitioner, not have their employer or insurer present during medical examinations, seek advice from their registered industrial organisation or lawyer, and choose their own workplace rehabilitation provider if they are dissatisfied by the one selected by their insurer.

While certain rights may be implied at common law, the bill makes it clear they are recognised in the scheme. The bill includes a new requirement that a statement of rights and responsibilities concerning workers compensation must be provided to a worker by their employer upon the commencement of their employment. The statement must subsequently be provided to a worker and employer by the insurer when the worker makes the claim for compensation.

Another important change is the creation of a default workers compensation payment. This will ensure workers are not disadvantaged when the calculation of their weekly compensation is pending due to employers not providing information in a timely manner. This will mean immediate cash flow to an injured worker and their families with an accepted workers compensation claim and avoids unnecessary financial distress. This change is also supported by the creation of a power for WorkCover to compel an employer to provide relevant information within strict time frames.

The bill responds to increases in secondary psychiatric and psychological injury claims by requiring insurers to take all reasonable steps to minimise this risk and provide support services. It is proposed to develop a code of practice to further support insurers in this space. This will be done in consultation with key stakeholders and informed by expert advice.

The bill also improves rehabilitation and return-to-work outcomes in the scheme. This includes creating a new obligation on host employers to cooperate with a labour hire employer in the rehabilitation and return to work of an injured labour hire worker. The review found Queensland has comparatively lower use of rehabilitation and return-to-work plans compared to other jurisdictions. Recognising the important role these plans play, the bill introduces a new obligation on an insurer to establish a rehabilitation and return-to-work plan for an injured worker within 10 business days of

accepting the workers compensation claim. The plan must be prepared in consultation with the injured worker, their employer and the worker's treating practitioners and is to be reviewed and updated as the worker's recovery progresses.

Another key element in the successful return to work is a provision of suitable duties. An employer who cannot identify suitable duties for an injured worker must provide evidence to support this claim. The bill introduces an obligation on an insurer to scrutinise this evidence before forming their own opinion. To ensure the quality of providers of rehabilitation services in the scheme, the bill gives the power to the workers compensation regulator to set performance and service delivery standards for rehabilitation providers.

The workers compensation scheme is underpinned by its robust compliance and enforcement mechanisms. The bill further improves these mechanisms. The existing code of practice provisions are being expanded beyond insurer claims management to allow the coverage of other matters, such as rehabilitation and return-to-work requirements for employers or other persons. Existing guidelines and standards will be transitioned to scheme directions. This will provide certainty for obligation holders.

The workers compensation regulator will have enhanced regulatory tools. This will include the power to issue compliance notices to promote and enforce compliance where prosecution action is not warranted, as well as increase reporting obligations to require insurers to report employer-related offences to the regulator. Maximum penalties for certain key offences are being increased to reflect the seriousness of the offences and to meet community expectations about the enforcement of workers compensation offences.

Other amendments for this scheme include a strict prohibition on employers offering to provide a benefit or disadvantage to discourage or interfere with a worker making a workers compensation claim and providing a head of power to implement a governance framework to ensure appropriate training and ongoing due diligence checks for medical specialists in the scheme. These changes will ensure that our scheme remains strong and fair and that everyone meets their obligations.

The bill also makes amendments to the Industrial Relations Act 2016. I am very proud that this bill will bring parental leave entitlements into line with the prevailing conditions found in the Commonwealth Fair Work Act 2009. These changes include increasing the number of unpaid flexible parental leave days from 30 to 100; providing greater flexibility for parents with the introduction of late-term pregnancy leave; and allowing pregnant employees the ability to take leave up to six weeks prior to the commencement of birth-related leave. This brings us in line with the Fair Work Act.

Other changes in this bill include the addition of superannuation contributions to Queensland Employment Standards; increasing the small claims threshold for an unpaid wages claim from \$50,000 to \$100,000—we thought the increase in wages lines up and provides a much faster claims process for people wanting to make a claim; and amendments to the appeal pathway for decisions made by the Full Bench of the Queensland Industrial Relations Commission when constituted by a presidential member, which brings this into line with other comparable jurisdictions.

Lastly, the bill makes recommendations to the Labour Hire Licensing Act 2017 to ensure its compatibility with human rights; promote contemporary operational practices by facilitating the electronic service of documents under the act; and provide clarifying amendments to inspector powers regarding information and attendance.

As I said earlier, every worker deserves to come home safe at the end of every shift. When they do not, they and their families deserve nothing less than outstanding care and support from a world-class Queensland workers compensation scheme. These amendments make it even better than what it is currently. This bill will ensure that it continues to be the case here in this great state that we have one of the best workers compensation schemes in the nation. I commend the bill to the House.

First Reading

Hon. G GRACE (McConnel—ALP) (Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing) (11.56 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 Housing, Big Build and Manufacturing Committee

Mr DEPUTY SPEAKER (Mr Lister): Order! In accordance with standing order 131, the bill is now referred to the Housing, Big Build and Manufacturing Committee.