

INDUSTRIAL RELATIONS (FAIR WORK ACT HARMONISATION) AND OTHER LEGISLATION AMENDMENT BILL

Introduction



Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (4.59 pm): I present a bill for an act to amend the Industrial Relations Act 1999, the Industrial Relations Regulation 2011 and the Public Service Act 2008 for particular purposes. I table the bill and the explanatory notes. I nominate the Finance and Administration Committee to consider the bill.

Tabled paper: Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill 2012.

Tabled paper: Industrial Relations (Fair Work Act Harmonisation) and Other Legislation Amendment Bill 2012, explanatory notes.

The main objective of the bill is to provide for amendments to the Industrial Relations Act 1999. This act is within my portfolio and, to the extent that it relates to public sector industrial relations, the portfolio of the Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister Assisting the Premier. As well, the bill amends one statute within the portfolio of the Premier, the Public Service Act 2008.

The bill modernises the Industrial Relations Act 1999 to reflect certain key aspects of the Commonwealth Fair Work Act. In addition, the bill requires the Queensland Industrial Relations Commission to give consideration to the prevailing economic conditions when determining wages and other conditions of employment. Finally, the bill amends the Public Service Act 2008 to allow a member of the Queensland Industrial Relations Commission to hear Public Service appeals.

From 1 January 2010, Queensland referred its private sector industrial relations powers to the Commonwealth. This referral consequently reduced the Queensland industrial relations jurisdiction to approximately 245,000 workers, the majority of whom are employed in the state public sector and local government. These changes will also allow us to introduce a number of amendments that are modelled on the federal Fair Work Act 2009 and thus deliver greater harmonisation with the federal industrial relations system.

The bill also delivers on the government's commitment to ensure that our state has a Public Service that it can afford and one that delivers for Queenslanders. This will be achieved by requiring the Queensland Industrial Relations Commission to consider the state's financial position and fiscal strategy when it determines public sector wages.

There are six key objectives of the bill. Firstly, the act has been amended to require the Queensland Industrial Relations Commission to give consideration, as I have indicated, to the financial position of the state when making a binding arbitrated decision relating to public sector wages. Secondly, a new process has been introduced whereby the Queensland government can brief the Queensland Industrial Relations Commission on the state's financial position, fiscal strategy and related matters.

Thirdly, the amendments improve the requirements for the taking of protected industrial action in connection with a proposed certified agreement. These new arrangements mirror the provisions in the Fair Work Act and harmonise the state system with the federal system. Fourthly, the changes introduce a process for employers to request employees to approve a proposed certified agreement by voting for it. Once again, these provisions reflect the current arrangements in the fair work federal legislation.

Fifthly, the changes deliver further consistency with the federal legislation by introducing a power for the Attorney-General to make a declaration terminating industrial action if the action is threatening the safety and welfare of the community or is threatening to damage the Queensland economy—again, mirroring federal legislation. Finally, the changes allow members of the Queensland Industrial Relations Commission to be appointed to conduct appeals of certain decisions which affect Public Service employees.

I will now discuss each amendment in more detail. The Queensland Industrial Relations Commission has an important function in establishing wages through its general rulings on wage and allowance adjustments for award and non-award employees and through its statements of policy on the principles of wage fixation. There are also times when, despite their best efforts, parties to a proposed certified agreement cannot reach agreement. At such times the Queensland Industrial Relations Commission may be required to impose an arbitrated decision on the parties that determines wages and conditions of employment. In order to ensure responsible financial management and return the state's budget to surplus, the Queensland government believes that it is important and in the interests of all Queenslanders that the Queensland Industrial Relations Commission is required to consider the state's financial position and fiscal strategy when determining wage outcomes for the Public Service.

I make the very important point that we have not adopted the approach of New South Wales in relation to public sector wage fixation. Our amendments still allow the Queensland Industrial Relations

Commission the discretion to determine wage outcomes. However, the commission must give consideration in its deliberations to the state's financial position and fiscal plan.

Enterprise Bargaining

Currently, the Industrial Relations Act 1999 does not prescribe a clear process for employee balloting on matters in connection with proposed industrial action. These arrangements are inconsistent with the federal Industrial Relations Act, which prescribes a process of balloting and related industrial action. The bill ensures that, once an order approving the balloting of employees has been obtained, there is a consistent process for how voting may occur and when a ballot can be considered successful. The voting process will be conducted by an independent and impartial body, the Electoral Commission of Queensland, with the costs of the ballot being met by the Electoral Commission of Queensland. The changes are not intended to modify the philosophy or underlying policy intent of the Industrial Relations Act 1999 in relation to the facilitation of enterprise bargaining. Instead the changes are intended to ensure that balloting processes are consistent, fair and transparent and reflect the standards set by the federal industrial relations system.

The bill will also clarify that employers have a right to directly request employees to approve a proposed certified agreement by voting for it. Once again, these provisions are consistent with those found in the federal Fair Work Act and will therefore ensure greater harmonisation with the federal jurisdiction.

Termination of Industrial Action

There may be times when our public services are so affected by industrial action that the public interest will be best protected by the Queensland government intervening to end the dispute. Having regard to the damaging effects protracted industrial action can have on Queensland businesses, workers and their families, as well as the risk it can pose to the safety and welfare of the community, the bill introduces a power for the Attorney-General to intervene and make a declaration requiring the industrial action to cease. Federal laws contain a similar provision, introduced under the previous federal legislative regime and preserved under the current regime and administration federally. The issue of uniformity with the federal jurisdiction aside, intervention by the Queensland government in industrial disputes will not be undertaken lightly and will only be utilised where there are strong public interest grounds warranting such action.

Providers of essential services will benefit from the new provision, better balancing the rights of the bargaining parties against the legitimate interests of the affected parties. Moreover, Queenslanders as consumers of essential services will benefit from provisions such as this which are aimed at mitigating severe disruption caused by protected industrial action. Finally, it will assist the government and the community at large by minimising the incidence of disputation that causes severe economic and social damage.

Appeals in the Public Service

The Public Service Act 2008 provides that a person may appeal to the Public Service Commission against certain decisions concerning Public Service employment. As the Industrial Relations Act now applies only to the Public Service and local government, there is little merit in retaining two distinct bodies to deal with public sector employment disputes. The government will also refocus the Public Service Commission away from a regulatory function towards public sector efficiency. To assist in that regard, Public Service appeals will now be heard by members of the Queensland Industrial Relations Commission. I commend the bill to the House.

First Reading



Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (5.07 pm): 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 the Finance and Administration Committee

Madam SPEAKER: In accordance with standing order 131, the bill is now referred to the Finance and Administration Committee.

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~~ADDRESS IN REPLY~~

~~Resumed from p. 58.~~