



# ***EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE***

**Members present:**

Ms KE Richards MP—Chair  
Mr MA Boothman MP (virtual)  
Mr DJ Brown MP  
Mr N Dametto MP (virtual)  
Mr JP Lister MP (virtual)  
Mr JA Sullivan MP

**Visiting Member:**

Mr JP Bleijie MP

**Staff present:**

Ms J Langford—Committee Secretary  
Ms R Duncan—Assistant Committee Secretary

## **PUBLIC BRIEFING—INQUIRY INTO THE INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 2022**

### **TRANSCRIPT OF PROCEEDINGS**

**THURSDAY, 30 JUNE 2022**

**Brisbane**

## FRIDAY, 30 JUNE 2022

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### The committee met at 10.02 am.

**CHAIR:** Good morning. I declare open this public briefing for the committee's inquiry into the Industrial Relations and Other Legislation Amendment Bill 2022. My name is Kim Richards. I am the member for Redlands and chair of the Education, Employment and Training Committee. I would like to acknowledge that we are meeting on the custodial land of the world's oldest continuing civilisation and I pay my respects to the Turrbal and Jagera people and their elders past, present and emerging. We are very fortunate in this country to live with two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander people.

With me today from the committee are Mr James Lister, the member for Southern Downs and our deputy chair, on the phone; Mr Mark Boothman, the member for Theodore, also on the phone; Mr Nick Dametto, the member for Hinchinbrook, also on the phone; Mr Jimmy Sullivan, the member for Stafford; and Mr Don Brown, the member for Capalaba, who is substituting for Mr Barry O'Rourke, the member for Rockhampton, who is unable to attend today. We also have with us, at a very late call, the member for Kawana, Mr Jarrod Bleijie, whom the committee has just granted leave to participate in the briefing and to ask questions this morning.

On Thursday, 23 June 2022 the Hon. Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, introduced the Industrial Relations and Other Legislation Amendment Bill 2022 into the Queensland parliament. The bill was referred to the Education, Employment and Training Committee for detailed consideration and report. The briefing today by the Department of Education and the Department of Justice and Attorney-General is to explain the objects and the key provisions of the bill. The committee's proceedings today are proceedings of the Queensland parliament and are subject to the parliament's standing orders. Witnesses will not be required to give evidence under oath, but I remind everyone that intentionally misleading the committee is a serious offence.

**McKARZEL, Mr David, Executive Director, Liquor, Gaming and Fair Trading, Department of Justice and Attorney-General**

**MOXHAM, Mr Rhett, Acting Director, Industrial Relations Policy, Office of Industrial Relations, Department of Education**

**SCHOSTAKOWSKI, Mr Tony, Acting Executive Director, Industrial Relations, Office of Industrial Relations, Department of Education**

**CHAIR:** Good morning, gentlemen. Welcome. Would you like to make an opening statement?

**Mr Schostakowski:** Thank you, Chair. I would appreciate if I could make an opening statement. I thank the committee for the opportunity to brief you on the Industrial Relations and Other Legislation Amendment Bill 2022. Joining me to assist with the briefing on the bill this morning are Mr Rhett Moxham, Director, Industrial Relations Policy from the Office of Industrial Relations and Mr David McKarzel, Executive Director from the Department of Justice and Attorney-General.

The primary purpose of the bill is to implement the recommendations from the five-year review of Queensland's Industrial Relations Act 2016 delivered to the Minister for Industrial Relations on 25 October 2021. The review report made 40 recommendations, 36 of which were accepted in full by the Queensland government, with 31 calling for amendments to the Industrial Relations Act, which the bill gives effect to, by strengthening protections against workplace sexual harassment; improving existing collective bargaining processes to advance gender pay equality; ensuring employees under the Industrial Relations Act have access to prevailing employment standards; promoting the primacy of registered organisations by providing a scheme whereby industrial organisations can seek and provide representation rights for employees and employers; introducing a jurisdiction to provide for minimum entitlements and conditions for independent courier drivers; and addressing redundant and superfluous provisions identified by the review report, including historical Queensland Health overpayment provisions. The bill also makes complementary amendments to the Associations

Incorporations Act 1981 that supports the policy intent of giving registered organisations primacy in the Queensland industrial relations system. Finally, the bill makes minor consequential amendments to the Anti-Discrimination Act and the Public Trustee Act.

The amendments in the bill provide broader protections for persons subject to sexual harassment and for sex or gender based harassment in employment. The amendments align the definition of sexual harassment to the meanings provided for under the Sex Discrimination Act and the Anti-Discrimination Act and align the definition of discrimination found in the Anti-Discrimination Act to ensure that relevant definitions in the IR Act reflect contemporary developments in Queensland's anti-discrimination legislation.

The amendments provide for the inclusion of sexual harassment and sex or gender based harassment as an industrial matter and provide that sexual harassment and sex or gender based harassment is added to the list of behaviours that constitutes misconduct for which an employer may dismiss an employee without the requisite notice period. The amendments also give the parties leave to have legal representation when appearing before the commission for this particular matter. The combined effect of these amendments lend weight to the policy intent, which is to prevent and protect employees from sexual harassment and sex or gender based harassment. These changes are broader than those provided under the Fair Work Act and encourage employers to take a proactive approach in reviewing their policies in this space.

To better support the achievement of gender pay equity, the bill brings forward the disclosure of information about the employees to be covered by a proposed agreement to the commencement of the negotiating process, ensuring parties consider gender pay equality from the start. Since the commencement of the current IR Act five years ago, there have been developments in employment standards following changes in community expectations which the bill addresses.

In respect to personal and compassionate leave, the bill stipulates that personal leave does not include public holidays. Transitional provisions introduced by the bill will clarify that this has always been the case unless an industrial instrument provides otherwise. The bill also provides that the evidence requirements for taking personal leave will align with the Fair Work Act provisions. The bill proposes changes to parental leave which are also aligned to the federal Fair Work laws such as the provision of up to 30 days unpaid flexible parental leave to be taken at any point within the first two years of a child becoming part of an employee's family and a right for full-time employees returning from parental leave to request a transfer to part-time work at any time before their child is required to enrol for school. The bill also proposes: an entitlement to parents of stillborn children to parental leave; changes to the evidentiary requirements by an employee to an employer of a pregnancy and the expected date of birth; raising the age limit of a child for adoption leave and cultural parental leave; and updating the language used throughout the IR Act to adopt gender-neutral terms and avoid any implied gender division of parental care.

The bill also supports collective bargaining by providing that the full bench of the Queensland Industrial Relations Commission may exercise a discretion to limit state wage case increases from being flowed into parent awards where the revised rates will exceed those payable under a certified agreement or determination. Collective representation is central to the Queensland IR system. In return for the right to represent, employee and employer groups must be registered and must comply with the governance and reporting requirements stipulated in the Industrial Relations Act. In recent years entities have emerged that seek to represent their members' or other persons' industrial instruments without registering or complying with the requirements of the Industrial Relations Act. The bill addresses this by providing a clear distinction between the representation rights of employee and employer organisations properly registered under the Industrial Relations Act and other entities not registered under the Industrial Relations Act that purport to represent the industrial instruments of employees and employers.

The bill also proposes an avenue for the Queensland Industrial Relations Commission to set minimum entitlements for independent couriers similar to the New South Wales Industrial Relations Commission by making a contract determination covering independent courier drivers, principal contractors and relevant registered organisations. These provisions will only take effect if the Australian government agrees to exempt Queensland from the federal independent contractor legislation. The Queensland government is in discussions with the Commonwealth regarding this exemption.

This bill also repeals the health employees specific wage recovery provisions for historical overpayments made by Queensland Health. I am conscious of time so I will close there and welcome any questions the committee might have.

**CHAIR:** Thank you very much. Deputy Chair, as is tradition, the first question to you.

**Mr LISTER:** If you do not mind, I would be happy for the member for Kawana to offer the opposition's questions until he has no further questions to offer.

**CHAIR:** Certainly, Deputy Chair. If you do not have any questions, I am happy to throw to the member for Kawana.

**Mr BLEIJIE:** Thank you, Madam Chair, and thank you and good morning to the department officials here today. With respect to the genesis of this legislation, there was a media release issued by the minister—it was a joint statement from the Premier and the minister—on 3 May 2021 which talked about elements of this legislation but did not go to the issue of registered organisations and did not deal with the case mentioned in the explanatory notes, the Gilbert case. Then the terms of reference of a review by former attorney-general Linda Lavarch were announced. Can you advise this committee who drafted the terms of reference for that particular review, please?

**Mr Schostakowski:** The independent review was conducted by two independent reviewers: Linda Lavarch and John Thompson. The review was an independent review conducted by those two reviewers. A report was handed to the minister in October 2021. The recommendations of the review have been taken on board and the government accepted 31 in full and called for legislative amendment. The bill has been drafted according to the government's recommendations with regard to the independent review. I might just ask Mr Moxham if he has any further detail on the terms of reference.

**Mr Moxham:** The terms of reference were developed in consultation with the minister.

**Mr BLEIJIE:** With who, sorry?

**Mr Moxham:** The minister.

**Mr BLEIJIE:** Did the terms of reference specifically require the reviewers to look into the issue of the registered organisations or, pursuant to the press release that was issued by the Premier and the minister, the sexual harassment protections for workers?

**Mr Moxham:** Sorry, I did not quite catch that question.

**Mr BLEIJIE:** The elements of the legislation we are talking about today which deal with the registered organisations and the eligibility to advocate for workers: was that in the terms of reference for the reviewers to review, did the reviewers take it upon themselves to look at that issue or was it a specific request for them to look at that issue?

**Mr Moxham:** I understand it was part of the terms of reference. Term of reference 2 states—

Review the operation and performance of the provisions of the Act and how, in practice, different provisions are contributing to its main purpose (section 3) and to how the main purpose is primarily achieved (section 4), including:

- (a) investigation of protections for workers subject to sexual harassment under the Act.
- (b) investigation into how the Act can enhance the purpose of encouraging representation of employees and employers by organisations that are registered under the Act.

**CHAIR:** Member for Theodore, do you have any questions?

**Mr BOOTHMAN:** I will hand my question over to the member for Kawana.

**CHAIR:** So you do not have any questions. You would also like to pass yours to the member for Kawana?

**Mr BOOTHMAN:** Yes.

**Mr BLEIJIE:** Who chose the reviewers—Linda Lavarch and Mr Thompson? Was there a merit based selection process? Was there an advertisement put out by the department seeking qualified people to conduct the review? Who chose the reviewers?

**Mr Moxham:** A number of options were canvassed with the minister's office. The minister's office selected the reviewers.

**Mr BLEIJIE:** Can you explain to the committee what those options presented to the minister's office were, please?

**CHAIR:** How is that related to this bill?

**Mr BLEIJIE:** This bill is on the basis of a review that was conducted. I am trying to ascertain—the terms of reference were issued and the explanatory notes talk about the review that was undertaken. It is completely appropriate to ask about the genesis of this bill based on the review. I

am simply asking the person who conducted the review which options were presented to the minister about who was going to do the review. The department would know because they presented the options.

**Mr SULLIVAN:** Chair, there are some 100 pages of the legislation itself, plus another 50 pages of explanatory notes. If the member for Kawana cannot find something relevant to this legislation then we should move on.

**Mr BLEIJIE:** For goodness sake, surely we are not going to have a protection racket when the Coaldrake report—

**CHAIR:** Member for Kawana—

**Mr BLEIJIE:** Are we going to start this already?

**CHAIR:** Member for Kawana, please do not talk over the chair. If you are going to reflect in terms of making comments such as running a 'protection racket', I will not tolerate that.

**Mr BLEIJIE:** Well, Madam Chair—

**CHAIR:** No. I am just telling you I will not tolerate that.

**Mr BLEIJIE:** Madam Chair, I am asking, then: how is the review, which is the basis of this legislation, not relevant to the department who conducted the review, please?

**CHAIR:** Member for Kawana, I will allow Mr Moxham some latitude in responding to that question, but I will put you on warning now. If you reflect on my chairing this committee meeting as running a protection racket, I will take this out into a private session.

**Mr BLEIJIE:** Thank you, Madam Chair. It was not directed at you; it was directed at the member to your right. I would ask, Madam Chair, that I be given the ability to ask these questions without the interruptions.

**CHAIR:** I have allowed you the questions from the start, with due respect.

**Mr Moxham:** It should be noted that the department did not undertake this review. This review was an independent review undertaken by former attorney-general Linda Lavarch and former industrial commissioner John Thompson. To the extent that the department was involved, it was to provide secretariat services and support to the reviewers, but we did not undertake the review. This was an independent review.

**Mr BLEIJIE:** My question was: what options were put to the minister about the review?

**CHAIR:** Mr Moxham has provided you with a response. You might not like that response, member for Kawana, but he has answered your question.

**Mr BLEIJIE:** The question has not been answered.

**CHAIR:** Member for Hinchinbrook, do you have a question?

**Mr DAMETTO:** Madam Chair, I am intently listening to the briefing.

**CHAIR:** So you have no questions either, member for Hinchinbrook?

**Mr DAMETTO:** There are no questions from me, Madam Chair. As I said, I am just listening to the briefing.

**Mr SULLIVAN:** Thank you for your opening statement and for the three of you coming today. This is a very broad reform, so I might ask about some of the specific elements of it. I will turn first to the reforms in relation to independent courier drivers. Could you touch on the history of that and why those specific reforms are designed that way to deal with that very specific challenge for owner-drivers in particular?

**Mr Schostakowski:** The independent courier provisions are a new jurisdiction for Queensland's industrial relations system. Basically, they are based on the New South Wales model and laws in relation to that industry. This is dependent on the Commonwealth government giving an exemption for the Queensland government to bring these laws into operation. It will cover principal contractors and independent contractors in the courier industry.

The Queensland laws do not have the exclusions that the New South Wales laws have. It will really be up to the Queensland Industrial Relations Commission to make determinations for classes of workers that apply. These determinations are meant to be a minimum safety standard for these workers who, as we have seen, can be subject to exploitation.

As I say, the provisions are subject to a Commonwealth government giving an exemption under the independent contractor laws. If you go back a little bit further, the Road Safety Remuneration Tribunal was a Commonwealth body set up which no longer exists. That gives you some background as to why these laws are necessary.

**Mr BROWN:** You have the powers now to investigate registered organisations; is that correct?

**Mr Schostakowski:** In terms of registered organisations registered under the Industrial Relations Act, the Queensland Industrial Relations Commission basically is the body that has jurisdiction over industrial organisations. They are the main body.

**Mr BROWN:** With regard to the reporting and investigation of registered organisations under the state scheme, the department is the body—

**Mr Schostakowski:** The commission is really the body that accepts reports from industrial organisations. Industrial organisations are currently required to report to the Industrial Registrar and the Queensland Industrial Relations Commission on financial matters and matters as to their operation. I can just check with Mr Moxham if the department has any powers still in relation to registered organisations.

**Mr Moxham:** I do not believe that we have a function of investigating industrial organisations, but it may be best if we take that on notice.

**Mr Schostakowski:** We could take that on notice and check that for you, if you like.

**Mr BROWN:** It is with the QIRC. Does the QIRC have any powers to investigate or to assess the financial status of unincorporated associations?

**Mr Schostakowski:** If the body is registered as an industrial organisation under the Industrial Relations Act then the answer is yes. The commission is the relevant body. The Industrial Registrar and the commission are the relevant bodies. If they are outside the jurisdiction of the Industrial Relations Act then that may fall to other bodies such as the Department of Justice and Attorney-General if it is to do with a registered association.

**Mr BROWN:** If there is an association that is purporting to be a union and a member of that association has questions about how their funds are being used, does the QIRC have any powers at the moment to investigate that body?

**Mr Moxham:** No.

**Mr BROWN:** With regard to these associations purporting to be unions themselves, I did a general search this morning under a few names such as the Nurses' Professional Association. I could not find anything in the register. Do we know what they are registered under?

**Mr Moxham:** They are not registered under the Industrial Relations Act. I believe they may be an incorporated association under the Associations Incorporation Act, but I could not confirm that.

**Mr BROWN:** Do we know what they are actually associated under?

**CHAIR:** Mr McKarzel, do you have anything to add?

**Mr McKarzel:** Without looking at the records, I can say broadly or generically that if they have an incorporated status then it is likely they have become incorporated by virtue of an application under the Associations Incorporation Act, which is the generic act that allows associations to get legal status. Currently it would be under that generic provision in the Associations Incorporation Act which applies to community groups—

**CHAIR:** Football clubs and gardening clubs.

**Mr McKarzel:** All of them, yes.

**Mr BROWN:** I understand that. When I do a search for the Nurses' Professional Association of Queensland under that search function, I cannot find it. There are no search results.

**Mr McKarzel:** Sorry, Mr Brown, which register?

**Mr BROWN:** Under the charity or association check.

**Mr McKarzel:** Is that through the Office of Fair Trading?

**Mr BROWN:** That is correct, yes.

**Mr McKarzel:** I would have to look into it for you. I can take that on notice.

**Mr BROWN:** If members of this association want to do some background checks of this unincorporated association and they cannot find anything, do you think that is a problem for those members in that regard—not being able to find where these associations are registered, not being able to find some background or not even being able ask for their financial statements?

**Mr McKarzel:** There is a register of all incorporated organisations. I am not quite sure what the issue is in terms of you not being able to bring them up at the moment. Having said that, if they are registered as an incorporated association, they have reporting requirements that the OFT follow up. If a member of that association is not happy with the activity or conduct of the association, there are provisions in the AI Act that allow for cancellation. The first port of call for somebody who is not happy with an incorporated entity would be the OFT to argue that matters that have been brought to their attention should be looked at by the OFT. If the relevant criteria are triggered then there would be considerations as to whether or not they would continue as an incorporated association.

**Mr BROWN:** When I tried to search for the Business Union I could not find them either. In terms of these pretend unions and associations registering these names, if I cannot find them and someone signs up to them and they cannot find them if they have a grievance, does the department see that as a difficulty—to ensure they are doing the right thing by their supposed members?

**Mr McKarzel:** The intention is that all incorporated associations and their status are publicly available. I will go back to our operational area to see why it is that some of these entities are not showing up when you do a public search. Until I actually look at why they are not showing up, I cannot really assist you further.

**Mr BROWN:** Is it your understanding that the Nurses' Professional Association of Queensland, the Teachers' Professional Association of Queensland and the Business Union are all under one entity or are they separate associations?

**Mr McKarzel:** I do not know.

**Mr BROWN:** If they are purporting to be industrial organisations and giving industrial advice and assistance, do you see that there is a difficulty for the QIRC to police them if we cannot even understand whether they are one entity or several entities or even find them?

**CHAIR:** That is probably a question for Mr Schostakowski.

**Mr Schostakowski:** That is the reason for the amendments that are outlined in the bill in that there is confusion. That was identified in the review report and amendments have been implemented through the bill. The bill seeks to clarify that the existing framework needs to have registered industrial organisations that are subject to reporting arrangements in the Queensland Industrial Relations Commission and be transparent so that potential members are not misled.

**CHAIR:** Member for Southern Downs, are you deferring to the member for Southern Downs?

**Mr LISTER:** Yes, for the time being, please.

**Mr BLEIJIE:** Madam Chair, can I seek clarification from you? I asked two questions before and then I was cut off. The member who just spoke had about six questions and three questions before that. I just want to know how the committee is operating today.

**CHAIR:** Member for Kawana, do you have a question?

**Mr BLEIJIE:** I have lots of questions.

**CHAIR:** Please proceed.

**Mr BLEIJIE:** I am asking for the time line. Are we going to get equal time here?

**CHAIR:** Please proceed.

**Mr BLEIJIE:** We are going to have equal time?

**CHAIR:** There is no standing order that determines that. You are reflecting on the chair again.

**Mr BLEIJIE:** I am seeking clarification so I can do my time line.

**CHAIR:** If you do not have a question, I am very happy to throw to our side.

**Mr BLEIJIE:** Madam Chair, I have lots of questions.

**CHAIR:** Then please proceed.

**Mr BLEIJIE:** Can the department advise this committee whether the Nurses' Professional Association of Queensland and the Teachers' Professional Association of Queensland were consulted on this bill?

**Mr Schostakowski:** I can make a brief comment in relation to that question. In the explanatory notes there is some detail of the consultation undertaken, firstly, by the reviewers and contained in their review report. Secondly, in relation to the development of the bill, the stakeholder engagement that was undertaken by the Office of Industrial Relations with the major stakeholders is outlined on pages 5 and 6 of the explanatory notes. That gives detail on that question.

**Mr BROWN:** Are they the same entity or different?

**Mr BLEIJIE:** I have the—

**Mr BROWN:** Can you answer that question for me, member for Kawana?

**CHAIR:** Member for Capalaba—

**Mr BLEIJIE:** I have the page in the explanatory notes relevant to that—

**CHAIR:** Is it clear to you who has been consulted?

**Mr BLEIJIE:** No, it did not answer my question. My question is this. You have been questioned by the member for Capalaba in relation to the Teachers' Professional Association and the Nurses' Professional Association. This bill clarifies their position, as you indicated in your previous answer to another member. Why did the department not consult the very bodies that the bill is relevant to?

**Mr Schostakowski:** I refer to the explanatory notes again, but I would make the comment that the organisations—both employee and employer organisations—that were consulted are named. Those organisations are registered industrial organisations in the Queensland industrial relations framework. My observation would be that they were the main organisations that were consulted. That is not to say that throughout the committee review process of the bill there is not the opportunity for submissions to be made in relation to the bill.

**Mr BLEIJIE:** Page 7 of the explanatory notes reference the Gilbert case, which is the basis of this legislation. Is the department aware it is actually the subject of an appeal at the moment with President Davis?

**Mr Schostakowski:** I might ask Mr Moxham if he knows.

**Mr Moxham:** Yes, we are aware that that is under appeal.

**Mr BLEIJIE:** Would it not ordinarily be the case that the department would give advice to the minister to see the outcome of said appeal before recommending a bill be introduced into parliament? Did the department give that advice to the minister?

**Mr Moxham:** No advice was provided. I do not accept that you would necessarily provide that advice.

**Mr BLEIJIE:** Was the department aware that the Nurses' Professional Association of Queensland and the Teachers' Professional Association of Queensland were not even consulted as part of the review undertaken by Linda Lavarch?

**CHAIR:** Could you repeat that question? I missed part of it, member for Kawana.

**Mr BLEIJIE:** We have ascertained that those organisations were not consulted as part of this bill. They are not referenced in the explanatory notes. Was the department aware that those two organisations that I mentioned were not even consulted during the review stage? The department has relied on the review as the basis for this legislation being debated.

**Mr Schostakowski:** I think I might have mentioned before that in the explanatory notes is the detail of all the consultation undertaken. The other comment is that the engagement was with stakeholders who were registered industrial organisations in the industrial relations framework and system.

**CHAIR:** I think you have made that very clear.

**Mr BLEIJIE:** My understanding is that over 12,000 nurses have chosen to leave the Queensland Nurses and Midwives' Union and join the Nurses' Professional Association. The people I have talked to who have joined this organisation—the frontline nurses—have joined this organisation because they believe they get a better service, it is cheaper and they believe money is not being funnelled to the Labor Party. Did the department give advice to the minister that she ought talk to the Nurses' Professional Association of Queensland or the Teachers' Professional Association of Queensland when we are talking about public servants—our frontline workers like nurses? You are the department of industrial relations. I find it odd that when we are talking about a group of frontline workers—over 13,000 members—they would not be subject to the discussions in the context of drafting this bill.



**CHAIR:** That is a very lengthy preamble. I would suggest that—

**Mr BLEIJIE:** I was giving context, Madam Chair.

**CHAIR:** I wonder if those members are aware that they are members of an association and not members of a registered industrial organisation.

**Mr BLEIJIE:** So you are able to put that point of view, Madam Chair—

**CHAIR:** Mr Schostakowski, feel free to answer that question however you please.

**Mr Schostakowski:** The proposed bill gives effect to the recommendations out of the review report. That is, it is concentrating and focusing on setting up a framework for the industrial relations system within which registered organisations operate and not have a system where there are other entities that could mislead or confuse the public. That is the very point that the report makes and the bill tries to make through the amendments.

**CHAIR:** Ensuring a consistent approach to organisations that seek to represent employees and employers.

**Mr Schostakowski:** That is the focus. That is correct.

**Mr BLEIJIE:** I mentioned 13,000—I have probably misled the committee because I think it is upwards of 15,000 Queenslanders who have now chosen to join different organisations that they believe want to represent them. Can the department advise this committee how section 22(2) of the Human Rights Act could possibly be discharged when this legislation specifically prevents people from forming unions and seeks to coerce them to not join other unions and industrial associations that are not registered and do not want to seek registration?

**CHAIR:** I think Mr Schostakowski got the basis of the question, member for Kawana.

**Mr Schostakowski:** The public still have a choice. They have freedom of association, and that has not been interfered with. There is no interference there. What the bill is doing is saying that you have organisations that are registered to represent you in the Queensland industrial relations jurisdiction and others. The choice the public make is not interfered with by the bill. That is still a choice that people will have.

**Mr BLEIJIE:** If you are a nurse working in a Queensland public hospital today and you have chosen to be a member of the Nurses' Professional Association of Queensland and not the Queensland Nurses and Midwives' Union, I would like you to explain to this committee what will change for them being a member of that organisation after this bill is passed and what is the intent. Basically, my question is: what will change for that nurse with the intention of this bill once it is passed?

**Mr Schostakowski:** I will ask Mr Moxham to go through the detail of that.

**Mr Moxham:** For that person, essentially nothing will change. The unregistered organisations have no rights of representation under the industrial relations framework. Currently, the nurse who has chosen to join the unregistered organisation cannot rely on that organisation to perform any representational rights on their behalf within the confines of the industrial relations framework. The members who have joined registered organisations continue to have their rights represented as they currently do under the Industrial Relations Act because registered organisations have those representational rights within the framework.

**CHAIR:** I might ask a question following on from that. So what that means then is that when that nurse makes a choice she will be clearly informed that if she chooses to have a body represent her they are eligible to do so under the legislation?

**Mr Moxham:** Yes, and that is one of the key objectives the bill seeks to achieve. It is about ensuring that organisations that are unable to legally represent the industrial rights of persons within the framework of the Industrial Relations Act cannot go out and misrepresent their representational rights or misrepresent what they can or cannot achieve for members.

**CHAIR:** So it is about ensuring that any worker or any employer is very clear and that it is a transparent process when it comes to how the legislation applies to those particular organisations?

**Mr Moxham:** That is correct.

**Mr BLEIJIE:** On that basis then, when you have frontline public servants choosing—their choice—to leave the traditional unions that have affiliations with the Labor Party and Labor government—if these nurses and teachers are choosing to leave that organisation—did the department—

**Mr BROWN:** Point of order, Madam Chair. The member for Kawana is misleading the committee and this inquiry. The Teachers' Union and the nurses union are not affiliated with the Labor Party whatsoever. I ask him to correct his statement before putting his questions.

**Mr BLEIJIE:** The Teachers' Union and the nurses union give big donations to the Queensland Council of Unions. You follow the money trail: the Queensland Council of Unions gives to the Labor Party in Queensland. The nurses union had signs in the federal election campaign endorsing a Labor government victory. Please, member for Capalaba—

**Mr BROWN:** That is very different.

**Mr BLEIJIE:** On that point then, can I ask whether at this meeting any conflicts have to be declared of union associations or financial—

**Mr BROWN:** They are all on our register of interests.

**CHAIR:** They are all on our register of interests and they have been discussed in our private meeting. I suggest—

**Mr BLEIJIE:** Point of order, Madam Chair. We are at a public meeting. I do not have your register or the register of the other Labor members—

**CHAIR:** You have access to my register of interests, member for Kawana, as does every member of the House.

**Mr BLEIJIE:** I would like it disclosed today.

**CHAIR:** Member for Kawana, I suggest you ask a question of the department that is here to brief us today or I will need to close this session and move into a private meeting. If you have further questions, I suggest you ask them.

**Mr BLEIJIE:** I do. My point is that you have people leaving the traditional union movement in Queensland in droves—the Teachers' Union and the Queensland Nurses and Midwives' Union. Did the department brief the minister on an option to clarify the situation and have these parties as registered organisations so that workers can join either the traditional nurses union or the Nurses' Professional Association and they have equal rights? Did the department brief the minister or give an option to the minister in that regard?

**CHAIR:** Who would like to answer that?

**Mr Schostakowski:** I will have a crack at answering that first. I think that gets back to freedom of association and freedom of choice for the individual—that is, whether they want to join one of these organisations or join a registered industrial organisation. That is outlined in the explanatory notes quite clearly. The Office of Industrial Relations is implementing the recommendations of the review report. We focused throughout on making sure it is a fair and transparent system for registration in the industrial relations system.

**CHAIR:** So it would be fair to say that this legislation provides the ability for people seeking to become members of organisations to make an informed choice and ensure transparency around what that organisation is able to—

**Mr Schostakowski:** That is correct. It clarifies what a registered industrial organisation can do and what an unregistered body is unable to achieve.

**CHAIR:** This will provide greater transparency for potential members when making a choice to be part of those organisations?

**Mr Schostakowski:** That is correct.

**Mr BLEIJIE:** Can the department please describe to this committee what 'arrange an agent' means in the legislation?

**Mr Schostakowski:** I might ask Mr Moxham if he can answer that.

**Mr Moxham:** Are you able to point to the provision?

**Mr BLEIJIE:** I cannot off the top of my head. You could take it on notice.

**CHAIR:** Perhaps you could come back and find where that is.

**Mr BLEIJIE:** I am happy for them to take it on notice. I want them to seek—

**CHAIR:** No, member for Kawana. I am happy for you to be able to point to that specific reference. While you are looking for that, I will throw to the member for Hinchinbrook. Did you have a question?

**Mr DAMETTO:** Not at this point, Madam Chair.

**Mr SULLIVAN:** Can I talk to page 17 of the explanatory notes, where we are looking to expand some of the practices in relation to the evidence required for birth related leave? It reflects the fact that it is fine for us down in Brisbane to be able to get access to doctors at the Royal, for example, but for people in regions there is a need to reflect the really important role that nurses and midwives have in this space as well as, of course, the fantastic services of our Aboriginal and Torres Strait Islander health services. Can you talk to that point at all?

**Mr Moxham:** It was identified that there were far too restrictive elements within the act that required a certificate to be issued by a doctor. As you have identified, and as has been identified by numerous people in various forums, when you are in regional or remote Queensland, accessing a doctor can sometimes be problematic. The bill is proposing to provide some greater flexibility, to meet the needs of rural and regional Queenslanders to be able to access—if necessary, because the bill also provides that in the first instance, for sick leave and for other types of personal and parental leave, potentially it is sufficient for the employee to inform the employer and the employer may take that at face value: 'Yes, this employee has told me that they are pregnant and I will accept that they are pregnant.' If they do need a certificate, it provides greater flexibility so that the employee can access services that are readily available to them in the community in which they are living and working, rather than having to find time out of their daily schedule or to undertake great expense or inconvenience to travel to obtain a doctor's certificate for the purposes of informing the employer of their upcoming need for parental leave.

**Mr SULLIVAN:** In what could be challenging times for them anyway.

**Mr Moxham:** Yes, particularly in unfortunate circumstances where an employee has suffered a miscarriage. We do not want to be putting employees who are already in very a delicate and distressing period of their life under more stress.

**Mr SULLIVAN:** The introduction of the phrase 'health practitioner' is broad enough to cover those health workers while also maintaining the standard, because they are obviously registered health workers?

**Mr Moxham:** Health practitioners are linked back to the national law for health practitioners, which provides a very clear definition of what is meant by the term 'health practitioner'. The health practitioners legislation also provides that those practitioners can only issue certificates that are relevant to their area of practice. You cannot have a person who has no scope of practice with respect to maternity issuing a certificate for those circumstances, but the act does provide very clearly that there is a greater range of practitioners who are able to provide those certificates and they are appropriate particularly for people who are living in rural and regional Queensland.

**Mr BROWN:** Why was the Redlands Softball Association not consulted in the drafting of this bill?

**Mr Schostakowski:** The answer I provided before maybe touched on that in that we are looking at the industrial relations system and the major stakeholders that are registered to operate in the industrial relations system.

**Mr BROWN:** But a nurse employed by Queensland Health can be a member of that association. Do you think they should have been consulted with regard to this legislation?

**Mr Schostakowski:** No. As I said, the focus is on the registered industrial relations system.

**Mr BROWN:** Thank you very much. With regard to consistency around employer and employee organisations, how do these proposed laws fit within the federal sphere and with other state jurisdictions?

**Mr Moxham:** The provisions that currently exist within Queensland are consistent with the Commonwealth and also the majority of other industrial relations jurisdictions within Australia. Since very early on in Australia's industrial relations history it has been recognised that there is a requirement to ensure that those organisations that are entrusted to represent the industrial interests of their members, being employees or employers, should be registered within each of those jurisdictions. Registration provides a significant number of benefits for all of the industrial parties. Registration requires the organisation to adhere to rigorous reporting requirements, which ensures good governance. It minimises risks of misconduct and provides transparency to the membership of these organisations. Entities that choose not to register under the IR Act are not subject to these reporting requirements. Given the central role of registered organisations in not just Queensland but all other industrial relations systems and the trust placed in them by the system and negotiating parties, it is reasonable to require the key players to adhere to the high governance and transparency standards that come with registration under the acts.

**Mr Schostakowski:** Pages 8 to 12 of the explanatory notes give an outline of the Commonwealth and the other states' legislation.

**CHAIR:** Member for Southern Downs, did you have a question?

**Mr LISTER:** Thank you, Chair. I will defer to the member for Kawana for the moment, please.

**CHAIR:** Is that the same for the member for Theodore? No questions?

**Mr BOOTHMAN:** Yes, I will defer to the member for Kawana, but I will ask a question a little later.

**CHAIR:** Lovely. Thank you. Member for Kawana?

**Mr BLEIJIE:** Can the department explain to the committee under what circumstances a registered organisation would have standing to bring an application against an ineligible entity to seek that declaration under the bill?

**Mr Moxham:** Could you clarify that question, please?

**Mr BLEIJIE:** Under what circumstances would a registered organisation have standing to bring an application against an ineligible entity to seek that declaration? Under the bill it talks about a registered organisation being able to go off to the Queensland Industrial Relations Commission to seek that an organisation or an entity is ineligible. I suspect that is on the basis—correct me if I am wrong—that the Nurses' Professional Association of Queensland and TPAQ currently have matters before the Queensland Industrial Relations Commission. My understanding of the bill is that a registered organisation can apply to have that entity deemed ineligible to have a declaration; is that correct?

**Mr Moxham:** There is standing provided within the act. In clause 51 of the bill, proposed section 483C provides who may apply for an order. It states—

The following entities may apply for an order under section 483B—

- (a) an organisation;
- (b) an entity that is eligible for registration under chapter 12 as an employee organisation or employer organisation;
- (c) an employer.

**Mr BLEIJIE:** Can I go back to the human rights element I mentioned before with the freedom of association. You have correctly pointed out that people have the freedom to join an association. They can join either the traditional nurses union or the Nurses' Professional Association. Once this bill is legislated, if a nurse joins the Nurses' Professional Association by their choice—you have admitted that that is correct; they can join that association—will that association have standing to continue to do what they do at the moment: go to the Queensland Industrial Relations Commission and advocate on behalf of their members?

**Mr Schostakowski:** I think the answer is no, when the proposed bill is brought into operation.

**Mr BLEIJIE:** They do not really have a choice then, do they? They can join an association, but this bill specifically then stops their association doing what it is currently doing on behalf of that member?

**Mr Schostakowski:** As I mentioned before, the focus of the bill, from the recommendations out of the independent review, is about setting up a fair industrial relations system that provides for registered industrial organisations.

**CHAIR:** Is there anything that stops those associations becoming a registered entity?

**Mr Schostakowski:** No.

**Mr BLEIJIE:** Does this legislation prevent an associated entity arranging an agent to act on behalf of a nurse, for instance, who is a member of the association?

**Mr Schostakowski:** I think you mentioned this before. Page 4 of the explanatory notes does talk about the amendments to the registered employee and employer organisations framework. The Queensland Industrial Relations Commission, on application, can make orders that an entity is ineligible for registration and support ancillary orders prohibiting an ineligible entity or an associated entity from representing a person, arranging for an agent to represent a person or holding out membership on the basis of being able to provide representation in industrial matters. That is one part of the equation for what the QIRC powers are changed and reflected to do. It is all-encompassing in terms of what the Queensland Industrial Relations Commission can do on application. Arranging for agents is one of those issues that are mentioned in the bill.

**Mr BLEIJIE:** It seems that the amendments in this bill are really just designed to limit a worker in Queensland—a public servant—having a choice about who they want to represent them if they believe they are getting a better service, cheaper fees and legal protection. It seems that this bill does everything it can to keep these organisations, agents or entities out of the Industrial Relations Commission, despite the fact that they are actually there at the moment advocating and working on behalf of members.

**CHAIR:** Mr Schostakowski, I think you might have already answered that question, but I am happy to give you some latitude in how you might respond again.

**Mr Schostakowski:** I just make the point that the focus of the bill is really to stop the confusion and misleading so that there is a fair and transparent system whereby people can make a choice to join a registered industrial organisation that is regulated, has reporting requirements and is totally transparent to the Queensland Industrial Relations Commission and the public.

**CHAIR:** Again, I think that goes back to your comments earlier that it is ensuring we provide all Queensland workers and employers with knowledge and information that they have at hand to ensure that, when they make a decision about which organisation they wish to join, they understand what services can be delivered by that organisation.

**Mr Schostakowski:** That is correct. The obligations on those registered organisations are part of the focus of the bill as well.

**Mr BLEIJIE:** They are obviously the Nurses' Professional Association of Queensland. I note, Madam Chair, that when I have asked a question you are filling in for the answer. I happy for the department—

**CHAIR:** No, I was asking a question as a member of this committee, thank you.

**Mr BLEIJIE:** You were re-summarising what the department are saying. My point is that they obviously seem to be doing a pretty good job if over 15,000 people are leaving the nurses union and going to these other organisations.

**Mr Brown** interjected

**CHAIR:** Member for Capalaba, please cease your interjections.

**Mr BLEIJIE:** Does the department believe that Queensland public servants are entitled to representation or an advocate in the Queensland Industrial Relations Commission?

**Mr Moxham:** All workers under the industrial relations framework are entitled to access representation for matters relevant to their industrial interests. They can do that by joining a relevant registered organisation or they can bring the matter themselves, under their own standing, and seek to have an agent assist them with any of the industrial matters they are seeking to pursue. The framework does not provide for unregistered organisations to bring matters in their own right.

**Mr BLEIJIE:** Should an individual be entitled to choose who that advocate is in that system?

**Mr Moxham:** If a worker is seeking to bring a matter to the commission as their own person, they can continue to do that. They can do it right now, and they will continue to be able to do that if this bill is progressed.

**CHAIR:** Member for Kawana?

**Mr BLEIJIE:** If the member for Theodore has a question—

**CHAIR:** That is lovely and very generous of you; thank you, member for Kawana.

**Mr BOOTHMAN:** During the five-year review process, what research or inquiries has the department undertaken to understand why so many thousands of nurses and teachers have left the current professional organisations and gone to these new organisations?

**CHAIR:** Member for Theodore, I think that would be speculating and opinion by the department, but I am very happy to provide them with the opportunity.

**Mr BOOTHMAN:** I just wondered if there was any research or inquiries done into that.

**Mr Moxham:** As previously identified, it was an independent review undertaken by two independent reviewers with secretariat support provided by the department.

**Mr BOOTHMAN:** So there was no detailed research into why all of these nurses and teachers have left existing organisations and sought out other organisations?

**Mr Moxham:** I cannot speak on behalf of the independent reviewers.

**CHAIR:** Did you hear that, member for Theodore? Can you repeat your answer, Mr Moxham?

**Mr Moxham:** I am unable to speak on behalf of the independent reviewers on what research they undertook or did not undertake.

**CHAIR:** Member for Hinchinbrook, do you have a question?

**Mr DAMETTO:** If there was another organisation or member based association that wanted to register as a registered industrial organisation, what would be the process for that?

**Mr Schostakowski:** The bill does propose some changes to registration which involve some amendments to the Industrial Relations Act and the Associations Incorporation Act to make sure that organisations that apply for membership are not misleading and confusing the public. As I say, the focus is on the Industrial Relations Act framework. It does strengthen the registration process by ensuring that bodies cannot mislead the public by trying to operate as industrial organisations. I might ask Mr Moxham to speak a little bit about the process involved.

**Mr Moxham:** Essentially, any organisation can apply for registration under the Industrial Relations Act if it meets the requirements of registration. Currently the system is not particularly clear on the pathway a new entity, collective of workers or collective of businesses would need to follow to achieve registration. In the bill we have tried to provide greater clarity for those organisations that are not yet registered but have a clear intent that the purpose of their existence is to become a registered organisation within the framework of the Industrial Relations Act. Perhaps if I talk to what the bill seeks to achieve?

**Mr DAMETTO:** Is there a clear list of reasons for which an organisation that has applied would be denied their application for registration?

**Mr Moxham:** Yes. Currently there are provisions within chapter 12 of the Industrial Relations Act which provide all of the requirements a currently unregistered organisation must fulfil in order to make an application and other requirements the commission must consider when it is considering an application for registration. The bill will make it very clear that if a collective of workers is seeking to become a registered organisation they cannot be an incorporated body. The same rule does not apply to a collective of employers who are seeking to register as employers. They can be a corporation. The bill will also provide that that collective of people or employers must have a clear resolution within their rules that the purpose of their existence is to seek registration under the Industrial Relations Act. It then also provides some time frames for how that organisation must proceed to bring an application under the Industrial Relations Act for registration.

Currently, the act provides that you cannot make an application until you have signed up your 20th member. The bill will further build on that provision to say that if the entity has signed up its 20th member then it must take active steps to make an application for registration under the act within 12 months of signing up that 20th member; alternatively, if they have signed up over 100 members within that 12 months, they then have a four-week period to bring an application for registration under the act. The current provisions that exist within the act continue to apply with respect to the matters the commission must consider when deciding whether to grant registration. I think the only other matter we have added is that the entity cannot make an application for registration if they have had their application for registration denied by the commission within the previous five years.

**Mr DAMETTO:** Just so I have the best understanding of this, who is ultimately responsible for approving or denying an application?

**Mr Moxham:** The Queensland Industrial Relations Commission.

**CHAIR:** Did you hear that? The QIRC.

**Mr DAMETTO:** Thanks very much. It is just a bit hard to hear over the phone.

**CHAIR:** Yes, I thought it might have been. Member for Kawana?

**Mr BLEIJIE:** Further to the member for Hinchinbrook's commentary and questions, is it not the case that, for instance, if the Nurses' Professional Association of Queensland wanted to register as an industrial organisation it is not possible for them to do what they need to do to advocate for their members because of the 'conveniently belong' rule? The 'conveniently belong' rule in the Industrial Relations Act says that if a member—a nurse or a teacher—can conveniently already belong to a registered organisation in that particular field—health or education—then it is not possible for what you are saying to happen; is that correct?

**Mr Moxham:** The 'conveniently belong' rule is an existing rule within the Industrial Relations Act that is not proposed to be changed by the elements of this bill. It would be up to the applicants in each application for registration to put forward how they believe they are eligible for registration. It would be open for other parties who may seek to oppose the application for registration to put up elements of why that entity is ineligible for registration under the act. It would come down to the facts and circumstances presented within each application.

**Mr BLEIJIE:** Further to the member for Hinchinbrook's question, where he said—and correct me if I am wrong, member for Hinchinbrook—that a member is free to join an association, whether it is the traditional nurses union or the Nurses' Professional Association, if the Nurses' Professional Association of Queensland wanted to register as an industrial organisation they can make the application but, because of the 'conveniently belong' rule, which is already in legislation, it would be highly unlikely they would be registered because of the ineligibility factors in the Industrial Relations Act. I want to make it absolutely clear, Madam Chair, that I do not think it is the case that an organisation can just join as a registered organisation because I think in Queensland, with the 'conveniently belong' rule, which is the union monopoly clause in the legislation—

**CHAIR:** Member for Kawana, that is certainly not the title and I would suggest that it is—

**Mr BLEIJIE:** Well, it is—

**CHAIR:** Member for Kawana, you can rephrase that question without that sort of inference and imputation, so please rephrase.

**Mr BLEIJIE:** No, I am not. It is a union monopoly clause.

**CHAIR:** Member for Kawana, rephrase the question or I will move to questions from other members.

**Mr BLEIJIE:** Point of order, Madam Chair. What imputation have I made against the department? I have said the 'conveniently belong' rule is known as the—

**CHAIR:** You can talk to the 'belong' rule, and that is the way you should phrase the question.

**Mr BLEIJIE:** Point of order, Madam Chair. I am sorry, but you cannot dictate to me as a member of parliament and guest member of the committee here today how I—the 'conveniently belong' rule is a union monopoly clause. I am sorry, Madam Chair, but I do not think it is in your power to tell me—

**CHAIR:** Member for Kawana, there is an imputation within that, and again I will ask you very kindly to rephrase.

**Mr BLEIJIE:** Madam Chair, point of order. An imputation has to be directed at an individual, and there is no individual at this table or on this bench whom I have impugned. The standing orders do not allow you, Madam Chair, respectfully, to ask me to change a definition of something that I am alleging is taking place.

**CHAIR:** Member for Kawana, please rephrase the question so you can get the response from the department you are seeking.

**Mr BLEIJIE:** My original question was: is it the case that it is highly unlikely that another industrial organisation in the health space would actually be registered as a registered organisation because of the 'conveniently belong' rule that applies today?

**Mr Schostakowski:** I would just go back to a previous point. It is probably a hypothetical question that the Queensland Industrial Relations Commission will hear applications for registration. We cannot pre-empt what those decisions would be, but we would say that the bill focuses on eligibility for registration that is set out clearly in the bill. As to the commission process for receiving applications and hearing cases, that is to be decided by the commission.

**Mr SULLIVAN:** There are a couple of other elements of the bill that I want to clarify. In relation to personal leave and its interface with public holiday leave, is it the department's view that it should be currently read that personal leave should not be required to cover what would otherwise be a public holiday but this bill clarifies that to make it absolutely clear?

**Mr Schostakowski:** That is correct. It makes it clear that the public holiday is exclusive. Around the sector there are differing provisions in industrial instruments, particularly for emergency services type workers, which will not be overridden by that particular section. It has always been the case but it is clarifying it.

**Mr SULLIVAN:** Secondly, one of the elements we have not really touched on in questions today but you did flag in your opening statement was the quite extensive reform in relation to sexual harassment and trying to tackle the challenges of sexual discrimination and harassment in the workplace. Can you talk to some of those elements?

**Mr Schostakowski:** That is right. It goes back to the objectives of the Industrial Relations Act and of course comes from the *Respect@Work* report. It is really an initiative that does put in place through the bill more protections against sexual harassment even in cases of dismissal—naming that as a reason in the dismissal provisions, allowing wider powers for the commission to make injunctive orders. It is really sort of putting more provisions in there to strengthen protections.

**Mr BROWN:** Just for clarity for the rest of the members on this committee and those tuning in, I note there are a number of nursing associations that have been formed: the Australian Nursing Association, Australian Association of Nurse Surgical Assistants, Australian Nurses' Hypertension Association, Past and Present Nurses Association, Ipswich Hospital Nurses Association, Medical Imaging Nurses Association—

**CHAIR:** That is probably enough examples, member for Capalaba.

**Mr BROWN:** What I am saying is that there are reasons why groupings of people get together outside of the industrial sense. Will anything in this bill stop those associations from existing and continuing to do what they have been doing?

**Mr Schostakowski:** The focus of the bill really is on strengthening the current system and making sure that it ends confusion and misleading as to who can represent an individual in the Industrial Relations Commission—to clear up that confusion and strengthen the framework so that people are represented by a registered industrial organisation that has obligations under the Industrial Relations Act.

**Mr BLEIJIE:** I have to go, Madam Chair, but I will leave it to my colleagues on the phone. My final question to the department is: the person who reviewed this legislation, former Labor attorney-general Linda Lavarch, I understand was also executive director of the Queensland Nurses and Midwives' Union in a past life. How was that conflict of interest managed during the review of the department?

**Mr Schostakowski:** We do not have any comment on the background to individual reviewers. Our focus has been on implementing the recommendations out of the review into the bill.

**CHAIR:** Thank you very much for your attendance.

**Mr BLEIJIE:** I have one last question. Is it the view of the department that this bill is basically just a stitch-up to enforce union monopoly in Queensland?

**CHAIR:** Member for Kawana, you are seeking an opinion. I rule that question out of order. Thank you very much for your time today.

**Mr BLEIJIE:** It was good to be here.

**CHAIR:** It has been a rigorous session. Thank you very much, member for Kawana.

**Mr LISTER:** Mr Moxham, you have mentioned in your testimony today on a number of occasions that the reviewers undertaking the review were independent. What qualifies a reviewer for that particular epithet—the term 'independent'?

**Mr BROWN:** Not a member of the government.

**Mr LISTER:** Sorry, I did not hear the answer.

**CHAIR:** Sorry, member for Southern Downs. You were interjected on by the member for Capalaba. Could you rephrase that question and speak up a little bit, please?

**Mr LISTER:** Are you talking to me, Chair?

**CHAIR:** It was difficult to hear you. Could you repeat the question?

**Mr LISTER:** My question was: Mr Moxham, on a number of occasions you referred to the reviewers as independent. What entitles a reviewer to the epithet 'independent', when you refer to them in those terms?

**Mr Moxham:** The reviewers were appointed with clear terms of reference. How they undertook any research, consultation or development of the review was solely within their free choice to decide how they conducted that review, with the department only providing a secretariat support role to assist the reviewers when requested.

**Mr SULLIVAN:** I will throw to you, Mr Moxham, because you spoke before around the history across jurisdictions and also the long history in Australian industrial relations law about the requirements and strength of having registered industrial organisations. Can you confirm that that goes to both employee and employer organisations, as reflected in our own system in Queensland and reflected in the employee and employer organisations already consulted as per page 6 of the explanatory notes?

**Mr Moxham:** The system of registration is not solely for employee coverage. It extends across the entire field of industrial relations to ensure there is a fair and balanced system that provides representation of both employer and employee interests within a structured industrial relations framework designed to achieve productive workplaces and fairness in work outcomes and to ensure that any disputation is undertaken in a very structured—



**Mr SULLIVAN:** An efficient system itself.

**Mr Moxham:** Yes.

**Mr SULLIVAN:** To that point, I think it was you, Mr Moxham, who said that those organisations that are registered carry with that responsibilities under the act—oversight and strict requirements in terms of transparency. Again, that applies to both employee and employer organisations?

**Mr Moxham:** That is right. The rules apply equally. Once an organisation is registered, the reporting requirements apply equally for employee and employer organisations.

**CHAIR:** The bill introduces a new mechanism to further enshrine equal remuneration for work as part of collective bargaining—something that is unique in Australia. How will this new mechanism work? It is in the explanatory notes on page 13.

**Mr Schostakowski:** The bill recognises those principles of equal remuneration and puts a requirement on the parties up-front in the collective bargaining process to provide data on issues such as the gender pay gap, the numbers of male and female employees—to provide that data up-front as part of the negotiating and collective bargaining process. That is a new part to the bill that does seek to bring that information out earlier rather than later.

**CHAIR:** That is fantastic. I think many Queensland women will celebrate the greater opportunity to equality in pay.

**Mr SULLIVAN:** I have a quick follow-up on that. I do not want to be too technical. As you said, there is some element of that gender consideration. It is my understanding that it is towards the very end. It is almost a tick-and-flick process at the end of the negotiation process; is that correct? This is trying to bring that forward.

**Mr Schostakowski:** That is correct. It makes it more of an up-front issue in the process rather than leaving it for later and makes the obligation more on the parties to provide that information up-front.

**CHAIR:** From the get-go. Terrific. Member for Southern Downs, do you have a question?

**Mr LISTER:** Yes, I do. I note on page 2 of the explanatory notes there is a sentence in paragraph 2 which states—

Under the IR Act registered organisations are subject to a range of accountability and transparency obligations including reporting to ensure they operate with rigour and integrity.

Are you aware of any actions that have been taken against registered unions under the IR Act for unlawful actions—for example, disposing of tonnes of documents subject to a subpoena after a subpoena has been issued or that kind of thing?

**CHAIR:** Member for Southern Downs, I am not sure this is relevant to the legislation that is before us. Mr Schostakowski, I am happy to provide you with some latitude in your response.

**Mr Schostakowski:** I will just make a comment that there are federal laws that may touch on those issues that may have been in the media in the past. I am not aware of any recent prosecutions type activity against industrial organisations in Queensland in relation to financial reporting. I am not excluding that there have not been things in the past but whether they are in the federal arena under the fair work system that may be the case. That is about all I could comment on at this point.

**Mr SULLIVAN:** Perhaps the deputy chair is referring to the retail association of Mr Driscoll that was dragged before the industrial relations court because of financial challenges. Would that be an example? Minutes were forged, for example.

**Mr Schostakowski:** Yes and fined. That is right. That is a case. It goes back quite a while. That was a registered organisation that was involved. My understanding was that it was the financial reporting that picked up some inaccuracies. That is all I could comment on.

**CHAIR:** That was the Retail Traders Association.

**Mr SULLIVAN:** I think it was.

**Mr Schostakowski:** Yes.

**Mr SULLIVAN:** It was not the NRA. I make that clear.

**Mr LISTER:** If a registered union engaged in unlawful practices to deal with picketing or a right of access and so forth, would those matters fall under the purview of this act in terms of operating with rigour and integrity?

**Mr Schostakowski:** My take on that question is that that may touch on other issues like workplace health and safety, which would be under another piece of legislation and not this legislation. Once again, there might be federal laws in the fair work system. This system is really about registration of industrial organisations and financial reporting.

**CHAIR:** Member for Hinchinbrook, did you have a question?

**Mr DAMETTO:** I believe some gender-specific language is being taken out of the Industrial Relations Act as part of this legislation, particularly in relation to 'maternity leave'. Is there anything in the legislation that protects those seeking to use gender-specific language in the workplace?

**Mr Moxham:** There is nothing in this bill that would prevent somebody from continuing to refer to 'maternity leave' within the workplace. The intent of the amendments in this bill is to remove any implication within the provisions of the act with respect to parental leave that one person of a specific gender may have a more prominent role in parental leave than another member within that family unit. The provisions are being provided to ensure there is no implication that one person has more obligations than another person and to ensure that parental leave can be taken that suits the needs of each family unit. Each family unit has unique needs, and that will be facilitated from this bill without implying that one person should shoulder all of the responsibility.

**CHAIR:** That is great for Queensland dads and mums. That is terrific. Member for Stafford, did you have a follow-on question?

**Mr SULLIVAN:** Only to thank the department for clarifying that, because it is not just about language; it is about the clear sign it sends to modern families in whatever shape or form they come and in whatever personal circumstances they find themselves, for better or for worse. Thank you for that clarification.

**CHAIR:** Member for Theodore, did you have a question?

**Mr BOOTHMAN:** My last question is more to do with the actual process when it comes to registered organisations and for organisations registering. If an organisation is rejected because another organisation does not wish them to be registered, what are the legal pathways to overturn a decision like that for the IRC? Are there any legal pathways or is the IRC's decision final?

**Mr Moxham:** Normal appeal rights that exist under the act apply to decisions of the commission, so decisions will be able to be appealed to the Industrial Court.

**Mr BOOTHMAN:** There will be pathways so they can fight this in court then?

**Mr Moxham:** That is correct.

**Mr SULLIVAN:** One of the other small but important changes I would like the department to comment on is the change to the rights for parental leave, however described, in cases of adoption and the change in age for that—for example, page 17 of the explanatory notes, where it is broadening the ability for parents to increase the age of adopted children in terms of when parental leave can kick in.

**Mr Schostakowski:** That is right. That increases the age from currently five years to 16 years. It brings in a more generous provision, but it also aligns it with the federal Fair Work Act. That is one of those areas that has been updated to reflect the fair work provisions.

**CHAIR:** We may have time for one more quick question.

**Mr BOOTHMAN:** In terms of the legal process to appeal a decision in the industrial relations court when it comes to registration, how long would that typically take? Would that also mean that those organisations would no longer be able to professionally represent their workers?

**CHAIR:** They actually cannot now, can they?

**Mr Schostakowski:** In terms of the process through the commission, as it is right now, there are of course matters that are appealed. That provision for the commission and the Industrial Court to hear appeal matters does take varying time on availability of commissioners and the court schedule, so I am unable to give a clear time frame. That would be something that would be on a case-by-case basis.

**Mr SULLIVAN:** I wanted to very briefly touch on the point of flexible leave with birth and child related leave. Mr Moxham, can you talk to how that is flexible across a two-year period? For example, there could be parents, each with their own careers, and they might take three months at a time of unpaid leave; is that correct? They can move in and out of that over that period to work around their family circumstances?

**CHAIR:** Do you mean flip in and out between the mum and the dad and share the time?

**Mr SULLIVAN:** Yes—unbroken or broken periods is how I read that.

**Mr Moxham:** It is designed to provide more flexibility for family units to achieve the needs of that family with respect to either the birth of the new child or an adoption and to also provide greater flexibility for those workers when they are returning to work so they can engage in a request to transfer to part-time work or more flexible forms of work that suit the family needs to ensure that child is supported.

**Mr SULLIVAN:** Up to the time of the child's education age?

**Mr Moxham:** That is right.

**CHAIR:** Thank you very much for your time today. That concludes our questions. Thank you to the departmental officers. Thank you to Hansard. Thank you to our parliamentary broadcast staff. Thank you to our secretariat. A transcript of these proceedings will be available on the committee's inquiry webpage in due course. I note that there have been no questions taken on notice.

Finally, I remind anybody who wishes to contribute to the committee's examination of the bill that the closing date for written submissions is Monday, 11 July 2022 at 9 am. We very much look forward to hearing from Queenslanders on this very important bill. Thank you very much for your time today, gentlemen. I declare this public briefing closed.

**The committee adjourned at 11.31 am.**