

1996–97

LEGISLATIVE ASSEMBLY OF QUEENSLAND

VOTES AND PROCEEDINGS

NO. 49

SECOND SESSION OF THE FORTY–EIGHTH PARLIAMENT

THURSDAY, 30 JANUARY 1997

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1 MEETING OF THE HOUSE

The House met at 9.30am pursuant to adjournment. The Speaker (Honourable N J Turner) read prayers.

2 GOVERNMENT PAPERS

The following papers were tabled—

Minister for Health (Mr Horan)—
Health (Drugs and Poisons) Regulations 1996—
Explanatory Notes
Regulatory Impact Statement

3 STATEMENT BY PREMIER – GOVERNMENT RESPONSE TO COMMITTEE REPORT

Premier (Mr Borbidge) made the following statement in relation to the Government's response to the Members' Ethics and Parliamentary Privileges Committee Report on the review of the Members' Register of Interests—

"I wish to advise the House, pursuant to the *Parliamentary Committees Act 1995*, of the Government's interim response to the report of the Members' Ethics and Parliamentary Privileges Committee on its review of the Members' Register of Interests.

The report was tabled in this place on 30 October 1996. As honourable members will be aware, the 21 recommendations of the committee contained proposals which review and revise present circumstance but also make recommendations which extend the application of the register to areas which are not presently covered. The consultation and detailed consideration that the Government wishes to give to these important matters has not yet been completed. I can give the House my assurance that I will be able to provide the Government's detailed response in the near future."

4 QUESTIONS WITHOUT NOTICE

Questions without notice were asked.

5 WORKPLACE RELATIONS BILL 1996 AND INDUSTRIAL ORGANISATIONS BILL 1996

Order of the day read for the further consideration of the Bills in Committee of the Whole House.

In the Chair – The Chairman

Workplace Relations Bill 1996—

Clause 15 (*Valid majority*)—

The following amendment was proposed by Mr Braddy—

At page 35, lines 8 to 24—

omit, insert—

'15.(1) For this part, a valid majority of the persons employed at a particular time whose employment is or will be subject to an agreement genuinely approve—

- (a) the agreement; or
- (b) the extension of the nominal expiry date of the agreement; or
- (c) the amendment or termination of the agreement;

if—

- (d) the employer gives all of the persons employed a reasonable opportunity to decide whether they give the approval; and
- (e) if the decision is made by a vote—a majority of the persons who cast a valid vote genuinely decide that they want to approve the agreement.

'(2) In this section—

"reasonable opportunity", for a person asked to decide to make, or give approval in relation to, an agreement, means being able to consider the decision or the giving of approval for a period of at least 14 days after the person is given a

copy of the agreement or any document relevant to its extension, amendment or termination.’.

Debate ensued.

Amendment negatived.

Clause 15, as read, agreed to.

Clauses 16 to 18 agreed to.

Clause 19 (*Agreement with employee organisations*)—

The following amendment was proposed by Mr Braddy—

At page 37, lines 9 to 11—

omit, insert—

‘(a) at least 14 days before approval is given, all the persons are given a copy of the proposed written agreement; and’.

Debate ensued.

Question put – That the words proposed to be omitted stand part of the clause.

The Committee divided.

AYES, 43

Baumann
Beanland
Borbidge
Carroll*
Connor
Cooper
Cunningham
Davidson
FitzGerald

Gamin
Gilmore
Goss, J
Grice
Harper
Healy
Hegarty
Hobbs\
Horan

Johnson
Laming
Lester
Lingard
Littleproud
McCauley
Malone
Mitchell
Perrett

Quinn
Radke
Rowell
Santoro
Sheldon
Simpson
Slack
Springborg*
Stephan

Stoneman
Tanti
Veivers
Warwick
Watson
Wilson
Woolmer

NOES, 43

Ardill
Barton
Beattie
Bird
Bligh
Braddy
Bredhauer
Briskey
Campbell

D’Arcy
De Lacy
Dollin
Edmond
Elder
Foley
Fouras
Gibbs
Goss, W

Hamill
Hayward
Hollis
Livingstone*
Lucas
Mackenroth
McElligott
McGrady
Milliner

Mulherin
Nunn
Nuttall
Palaszczyk
Pearce
Purcell
Roberts
Robertson
Rose

Schwarten
Smith
Sullivan, J
Sullivan, T*
Welford
Wells
Woodgate

Pairs – Mr Elliott (AYES) and Ms Spence (NOES)

**Tellers*

The numbers being equal, The Chairman cast his vote with the ‘AYES’.

Question agreed to.

Clause 19, as read, agreed to.

Clause 20 (*Agreement with employees*)—

The following amendments were proposed by Mr Santoro—

At page 37, line 18, after ‘made’—

insert—

‘who have previously approved the making of the agreement’.

At page 38, lines 16 and 17, ‘the proposed agreement is to be’—

omit, insert—

‘the commission is satisfied that the proposed agreement was’.

Debate ensued.

Amendments agreed to.

Clause 20, as amended, agreed to.

Clauses 21 to 23 agreed to.

Clause 24 (*Certain employee organisations not to be heard*)—

The following amendment was proposed by Mr Braddy—

At page 40, lines 7 to 17—

omit, insert—

‘Organisations entitled to be heard

‘24.(1) An employee organisation is entitled to be heard on an application to the commission to certify an agreement if—

(a) the organisation is entitled to represent the industrial interests of the organisation’s members who are employed by an employer who is a party to the agreement; or

- (b) the organisation—
 - (i) is bound by an award that binds the employer for work performed in the single business, or part of the single business; and
 - (ii) can show it has a genuine interest in the application.

'(2) As soon as practicable after the application is made, the commission must notify, as prescribed by regulation, each employee organisation entitled to be heard that—

- (a) the application has been made; and
- (b) the employee organisation is entitled to be heard on the application.

'(3) This section does not affect another right of an employee organisation or of another entity to intervene or be heard, or apply to intervene or be heard, on an application.'

Debate ensued.

Amendment negatived.

Clause 24, as read, agreed to.

Clause 25 (*Certifying an agreement*)—

The following amendments were proposed by Mr Braddy—

At page 40, line 24 to page 41, line 9—

omit.

At page 41, lines 11 to 15—

omit, insert—

'have, for an agreement made under section 19 or 20, genuinely approved the agreement.'

Question put – That the words proposed to be omitted stand part of the clause.

The Committee divided.

AYES, 43

Baumann
Beanland
Borbidge
Carroll*
Connor
Cooper
Cunningham
Davidson
Elliott

FitzGerald
Gamin
Gilmore
Goss, J
Grice
Harper
Healy
Hegarty
Hobbs

Horan
Johnson
Laming
Lester
Lingard
Littleproud
McCauley
Mitchell
Perrett

Quinn
Radke
Rowell
Santoro
Sheldon
Slack
Springborg*
Stephan
Stoneman

Tanti
Turner
Veivers
Warwick
Watson
Wilson
Woolmer

NOES, 43

Ardill
Barton
Beattie
Bird
Bligh
Braddy
Bredhauer
Briskey
Campbell

D'Arcy
De Lacy
Dollin
Edmond
Elder
Foley
Foursas
Gibbs
Goss, W

Hamill
Hayward
Hollis
Livingstone*
Lucas
Mackenroth
McElligott
McGrady
Milliner

Mulherin
Nunn
Nuttall
Palaszczuk
Pearce
Purcell
Roberts
Robertson
Rose

Schwarten
Smith
Sullivan, J
Sullivan, T*
Welford
Wells
Woodgate

Pairs – Mr Malone (AYES) and Ms Spence (NOES)

**Tellers*

The numbers being equal, the Temporary Chairman cast her vote with the 'AYES'.

Question agreed to.

Amendment negatived.

The following amendment was proposed by Mr Santoro—

At page 41, line 14, after 'genuinely'—

insert—

'approved and'.

Debate ensued.

Amendment agreed to.

The following amendment was proposed by Mrs Cunningham—

At page 41, after line 23—

insert—

'4. Persons with limited literacy or numeracy skills'.

Debate ensued.

Amendment agreed to.

The following amendment was proposed by Mr Braddy—

At page 41, line 28 to page 42, line 2—

omit, insert—

'(7) If the agreement was made under section 20, the employer must not have encouraged or coerced, or attempted to encourage or coerce, an employee to oppose the organisation's participation in the negotiations.'

Debate ensued.

Amendment negatived.

Clause 25, as amended, agreed to.

Clauses 26 to 30 agreed to.

Clause 31 (*Persons bound*)—

The following amendment was proposed by Mr Braddy—

At page 46, line 21—

omit.

Debate ensued.

Amendment negatived.

Clause 31, as read, agreed to.

Clause 32 agreed to.

Clause 33 (*Extending the nominal expiry date*)—

The following amendment was proposed by Mr Braddy—

At page 47, lines 15 to 20—

omit, insert—

'(1) The nominal expiry date of a certified agreement may be extended if—

(a) the parties agree to the extension; and

(b) before the nominal expiry date or the date as last extended under this section—

(i) if the agreement applies only to a single business—1 or more of the parties apply to the commission to approve the extension; or

(ii) otherwise—1 or more of the parties notify the commission of the extension.

'(1A) If an application is made under subsection (1)(b)(i), the extension has effect at least until the application is decided, even if that happens after the period mentioned in subsection (1)(b).'

Debate ensued.

Amendment negatived.

Clause 33, as read, agreed to.

Clauses 34 to 36 agreed to.

Clause 37 (*Terminating a certified agreement on or before its nominal expiry date*)—

The following amendment was proposed by Mr Braddy—

At page 50, lines 22 to 26—

omit, insert—

'37.(1) On or before the nominal expiry date of a certified agreement, any party to the agreement may terminate it by notice.'

Debate ensued.

Amendment negatived.

Clause 37, as read, agreed to.

Clause 38 (*Terminating a certified agreement after its nominal expiry date*)—

The following amendment was proposed by Mr Braddy—

At page 51, lines 15 to 23—

omit, insert—

'may apply to the commission to have the agreement terminated.

'(2) On receiving the application, the commission must take such steps as it considers appropriate to obtain the views of persons bound by the agreement about whether it should be terminated.

'(3) If, after complying with subsection (2), the commission considers that it is not contrary to the public interest to terminate the agreement, the commission must, by order, terminate the agreement.

'(4) The termination takes effect when the commission's order takes effect.'

Debate ensued.

Amendment negatived.

Clause 38, as read, agreed to.

Clause 39 agreed to.

Clause 40 (*Initiating of bargaining period*)—

The following amendment was proposed by Mr Braddy—

At page 52, lines 19 and 20, 'and for other employees'—
omit.

Debate ensued.

Amendment negated.

Clause 40, as read, agreed to.

Clauses 41 to 50 agreed to.

Clause 51 (*Immunity provisions*)—

The following amendment was proposed by Mr Braddy—

At page 62, line 13, ' , but does not include the *State Transport Act 1938*'—
omit.

Debate ensued.

Amendment negated.

Clause 51, as read, agreed to.

Clause 52 (*Employer not to dismiss employee etc. for engaging in protected action*)—

The following amendment was proposed by Mr Braddy—

At page 62, line 27—
omit.

Debate ensued.

Amendment negated.

Clause 52, as read, agreed to.

Clause 53 agreed to.

Clause 54 (*Power of commission to suspend or terminate bargaining period*)—

The following amendment was proposed by Mr Braddy—

At page 63, line 16 to page 66, line 8—
omit, insert—

'Power of commission to suspend or terminate bargaining period

'54.(1) The commission may suspend or terminate the bargaining period, after giving the negotiating parties an opportunity to be heard, if it is satisfied—

- (a) a negotiating party who has organised, is organising or has taken industrial action to support or advance claims the subject of the relevant industrial matter—
 - (i) is not genuinely trying to reach an agreement with the other negotiating parties; or
 - (ii) has not complied with a commission order about negotiating in good faith; or
- (b) industrial action being taken to support or advance claims the subject of the relevant industrial matter is threatening—
 - (i) to endanger the life, personal safety, health or welfare of the population or of part of it; or
 - (ii) to cause significant damage to the economy or an important part of it; or
- (c) if the bargaining period relates to employees employed in a part of a single enterprise—the initiating party is not complying with an award, industrial agreement, order or direction of the commission about another part of the single business or another workplace in the single business.

'(2) The commission may only act under subsection (1) on a ground stated in subsection (1)(b)—

- (a) on its own initiative; or
- (b) on an application by the negotiating party or the Minister.

'(3) The commission may only act under subsection (1) on a ground stated in subsection (1)(a) or (c) on an application by the negotiating party.

'(4) The commission's power to suspend or terminate the bargaining period because of particular circumstances may be exercised whether the circumstances happened before or during the bargaining period.

'(5) Section 51¹ does not apply to anything done by—

- (a) a negotiating party; or
- (b) a member, officer or employee of an employee organisation that is a negotiating party;

¹ Section 51 (Immunity provisions)

in connection with the relevant industrial matter when the bargaining period is suspended.

'Commission orders about negotiations for agreements under this part

'54A.(1) The commission may make orders to—

- (a) ensure the parties negotiating an agreement under this part negotiate in good faith; or
- (b) promote the efficient conduct of negotiations for the agreement; or
- (c) otherwise assist the making of the agreement.

'(2) In particular, the commission may order a party to take, or not to take, specified action.

'(3) In deciding what orders to make, the commission—

- (a) must consider the conduct of each of the parties to the negotiations and, in particular, whether the party concerned has—
 - (i) agreed to meet at reasonable times proposed by another party; or
 - (ii) attended meetings that the party had agreed to attend; or
 - (iii) complied with negotiating procedures agreed to by the parties; or
 - (iv) capriciously added or withdrawn items for negotiation; or
 - (v) disclosed relevant information as appropriate for the negotiations; or
 - (vi) failed to negotiate with 1 or more of the parties; or
 - (vii) in or in connection with the negotiations, failed to negotiate with a person who is entitled to represent an employee; and
- (b) may consider—
 - (i) proposed conduct of any of the parties, including proposed conduct of a type mentioned in paragraph (a); and
 - (ii) other relevant matters.'.

Debate ensued.

Amendment negatived.

Clause 54, as read, agreed to.

Clauses 55 to 58 agreed to.

Clause 59 (*Conciliation for agreements*)—

The following amendment was proposed by Mr Braddy—

At page 69, lines 11 to 16—

omit.

Debate ensued.

Amendment negatived.

Clause 59, as read, agreed to.

Clauses 60 to 65 agreed to.

Clause 66 (*Complementary laws*)—

The following amendment was proposed by Mr Braddy—

At page 74, line 16, 'a regulation'—

omit, insert—

'an Act'.

Debate ensued.

Amendment negatived.

Clause 66, as read, agreed to.

Clause 67 (*Object of pt 2*)—

Debate ensued.

The following amendment was proposed by Mr Braddy—

At page 75, lines 4 to 7—

omit, insert—

'Objects of pt 2

'67. The objects of this part are—

- (a) to facilitate—
 - (i) the making, approving by an enterprise commissioner, and operation, of certain agreements ("QWAs") between a single employer and a single employee or, if the employee chooses, the employee's employee organisation; and
 - (ii) the achievement of best practice in the workplace; and
 - (iii) increased job satisfaction and career opportunities; and

- (b) to ensure that no employee will be worse off because of the making of a QWA.’

Debate ensued.

Paper: Mr Robertson, during his speech, tabled the following paper—
Letter, dated 29 January 1997, from Wheldon & Associates Solicitors to former employee of Industrial Trust Aid Supplies Pty Ltd

Debate ensued.

Question put – That Clause 67, as read, stand part of the Bill.

The Committee divided.

AYES, 44

Baumann	FitzGerald	Horan	Perrett	Stephan
Beanland	Gamin	Johnson	Quinn	Stoneman
Borbidge	Gilmore	Laming	Radke	Tanti
Carroll*	Goss, J	Lester	Rowell	Veivers
Connor	Grice	Lingard	Santoro	Warwick
Cooper	Harper	Littleproud	Sheldon	Watson
Cunningham	Healy	McCauley	Simpson	Wilson
Davidson	Hegarty	Malone	Slack	Woolmer
Elliott	Hobbs	Mitchell	Springborg*	

NOES, 44

Ardill	D'Arcy	Hamill	Mulherin	Schwarten
Barton	De Lacy	Hayward	Nunn	Smith
Beattie	Dollin	Hollis	Nuttall	Spence
Bird	Edmond	Livingstone*	Palaszczuk	Sullivan, J
Bligh	Elder	Lucas	Pearce	Sullivan, T*
Braddy	Foley	Mackenroth	Purcell	Welford
Bredhauer	Fouras	McElligott	Roberts	Wells
Briskey	Gibbs	McGrady	Robertson	Woodgate
Campbell	Goss, W	Milliner	Rose	

*Tellers

The numbers being equal, The Chairman cast his vote with the ‘AYES’.

Question agreed to.

Amendment negatived.

Clause 67, as read, agreed to.

Clauses 68 and 69 agreed to.

Clause 70 (*Functions and powers of enterprise commissioner*)—

The following amendment was proposed by Mr Braddy—

At page 77, lines 20 and 21—

omit.

Debate ensued.

Amendment negatived

Clause 70, as read, agreed to.

Clause 71 agreed to.

Clause 72 (*QWAs and ancillary documents only have effect as provided by this part*)—

The following amendment was proposed by Mr Braddy—

At page 78, lines 6 to 10—

omit, insert—

‘(2) In particular, a QWA has no effect before an approval notice is issued for the QWA.’

Amendment negatived.

Clause 72, as read, agreed to.

Clause 73 (*Collective QWAs*)—

The following amendment was proposed by Mr Braddy—

At page 78, lines 11 to 17—

omit.

Amendment negatived.

Clause 73, as read, agreed to.

New Clause—

The following new clause was proposed by Mr Braddy—

At page 78, after line 18—

insert—

‘Employer must not seek a QWA if employee indicates preference for certified agreement

‘73A.(1) An employer must not coerce an employee to bargain for a QWA if the employee tells the employer that the employee wishes to bargain collectively with other employees for a certified agreement.

‘(2) In this section—

“coerce” includes require, induce and attempt to coerce.’.

Amendment negatived.

Clause 74 agreed to.

Clause 75 (*Matters to be included in QWAs*)—

The following amendment was proposed by Mr Braddy—

At page 79, lines 27 to 29—

omit, insert—

‘(5) If the QWA does not contain a dispute resolution procedure, the enterprise commissioner must insert an appropriate procedure in the QWA and, for that purpose, section 135² applies with all necessary modifications.’.

Amendment negatived.

Clause 75, as read, agreed to.

Clause 76 (*Nominal expiry date of QWA*)—

The following amendments were proposed by Mr Santoro—

At page 80, line 8, ‘may’—

omit, insert—

‘must’.

At page 80, lines 10 and 11—

omit.

Amendment agreed to.

Clause 76, as amended, agreed to.

Clause 77 (*Period of operation of QWA*)—

The following amendment was proposed by Mr Braddy—

At page 80, lines 23 to 25—

omit, insert—

‘(a) the day after an approval notice is issued for the QWA;

(b) the day specified for the QWA by the enterprise commissioner.’.

Amendment negatived.

Clause 77, as read, agreed to.

Clauses 78 to 80 agreed to.

Clause 81—

Division 4, heading—

The following amendment was proposed by Mr Santoro—

At page 82, line 24, **‘and approving’**—

omit.

Amendment agreed to.

Clause 81 and heading, as amended, agreed to.

Clause 82 (*Filing requirements*)—

The following amendments were proposed by Mr Santoro—

At page 83, lines 17 to 19—

omit, insert—

‘(ii) the employer gave the employee a copy of the information statement prepared by the employment advocate at least the required number of days before the employee signed the QWA.’.

Amendment agreed to.

The following amendment was proposed by Mr Braddy—

At page 84, lines 2 to 4—

omit, insert—

‘(b) the agreement must be accompanied by a declaration by the employer declaring—

(i) that the QWA, as varied, complies with section 75; and

- (ii) whether or not the employer has offered a variation agreement in the same terms to all comparable employees who also have a QWA in the same terms with the employer.’.

Question put – That the words proposed to be omitted stand part of the clause.
The Committee divided.

AYES, 44

Baumann	FitzGerald	Horan	Perrett	Stephan
Beanland	Gamin	Johnson	Quinn	Stoneman
Borbidge	Gilmore	Laming	Radke	Tanti
Carroll*	Goss, J	Lester	Rowell	Veivers
Connor	Grice	Lingard	Santoro	Warwick
Cooper	Harper	Littleproud	Sheldon	Watson
Cunningham	Healy	McCauley	Simpson	Wilson
Davidson	Hegarty	Malone	Slack	Woolmer
Elliott	Hobbs	Mitchell	Springborg*	

NOES, 44

Ardill	D'Arcy	Hamill	Mulherin	Schwarten
Barton	De Lacy	Hayward	Nunn	Smith
Beattie	Dollin	Hollis	Nuttall	Spence
Bird	Edmond	Livingstone*	Palaszcuk	Sullivan, J
Bligh	Elder	Lucas	Pearce	Sullivan, T*
Braddy	Foley	Mackenroth	Purcell	Welford
Bredhauer	Fouras	McElligott	Roberts	Wells
Briskey	Gibbs	McGrady	Robertson	Woodgate
Campbell	Goss, W	Milliner	Rose	

*Tellers

The numbers being equal, The Chairman cast his vote with the ‘AYES’.

Question agreed to.

Amendment negatived.

The following amendment was proposed by Mr Santoro—

At page 84, after line 15—

insert—

‘(8) In this section—

“**required number of days**” means—

- (a) for a new employee—5 days; or
- (b) for an existing employee—14 days.’.

Amendment agreed to.

Clause 82, as amended, agreed to.

Clause 83 agreed to.

Clause 84 (*Additional approval requirements for QWA and ancillary documents*)—

The following amendments were proposed by Mr Braddy—

At page 84, lines 26 and 27—

omit, insert—

‘(c) the employer explained the effect of the QWA to the employee between—

- (i) the time the employee first received a copy of the QWA; and
- (ii) the time when the employee signed the QWA;’.

At page 85, line 2, ‘QWA.’—

omit, insert—

‘QWA; and

- (e) in a case where the employer failed to offer a QWA in the same terms to all comparable employees—the employer did not act unfairly or unreasonably in failing to do so.’.

Amendments negatived.

The following amendment was proposed by Mr Braddy—

At page 85, after line 2—

insert—

‘(1A) The employee may consult with, or seek advice from, anyone about the QWA given to the employee under subsection (1)(b) and the copy is the property of the employee.’.

Amendment agreed to.

The following amendments were proposed by Mr Braddy—

At page 85, lines 8 to 10—

omit, insert—

- (c) the employer explained the effect of the amendment agreement to the employee between—
 - (i) the time the employee first received a copy of the amendment agreement; and
 - (ii) the time when the employee signed the amendment agreement; and'.

At page 85, line 12, 'agreement.'—

omit, insert—

'agreement; and

- (e) in a case where the employer failed to offer an amendment agreement in the same terms to all comparable employees—the employer did not act unfairly or unreasonably in failing to do so.'

Amendments negated.

The following amendment was proposed by Mrs Cunningham—

At page 85, after line 20—

insert—

'4. Persons with limited literacy or numeracy skills'.

Amendment agreed to.

Clause 84, as amended, agreed to.

Clause 85 (*Approving QWA*)—

The following amendment was proposed by Mr Santoro—

At page 86, after line 5—

insert—

'(1A) If the enterprise commissioner has concerns about whether the QWA passes the no-disadvantage test, the enterprise commissioner must—

- (a) notify the employee of the concerns; and
- (b) the reasons for them.'

Amendment agreed to.

Clause 85 (*Approving QWA*)—

The following amendment was proposed by Mr Braddy—

At page 86, lines 6 to 16—

omit, insert—

'(2) If the enterprise commissioner has concerns about whether the QWA passes the no-disadvantage test, the enterprise commissioner must—

- (a) notify the employee of the concerns and the reasons for them; and
- (b) allow the employee at least 7 days to consider the concerns.

'(2A) The employee may consult with, or seek advice from, another person or the employee's employee organisation about the concerns and the proposed QWA.

'(3) If, after the employee has considered the enterprise commissioner's concerns, the enterprise commissioner is still not satisfied the QWA passes the no-disadvantage test, the enterprise commissioner must refer the QWA to a full bench for approval.

'(3A) The full bench must consider the QWA in an open hearing at which the employee is entitled to be represented and to make submissions in relation to the QWA.

'(3B) In deciding whether to approve the QWA, the full bench must have regard to the objects of this Act and any relevant awards.'

Debate ensued.

Amendment negated.

Clause 85, as amended, agreed to.

Clauses 86 and 87 agreed to.

Clause 88 (*Enterprise commissioner must issue approval or refusal notice*)—

The following amendment was proposed by Mr Braddy—

At page 87, line 19, '**approval or refusal notice**'—

omit, insert—

'**certain notices**'.

Debate ensued.

Amendment negated.

The following amendment was proposed by Mr Braddy—

At page 87, after line 25—

insert—

'(2A) If the enterprise commissioner considers the QWA does not pass the no-disadvantage test, the enterprise commissioner must issue a notice to that effect to the employee.'

Debate ensued.

Amendment agreed to.

Clause 88, as amended, agreed to.

Clauses 89 and 90 agreed to.

Clause 91 (*Effect of QWA on awards and agreements*)—

The following amendment was proposed by Mr Braddy—

At page 88, lines 10 to 23—

omit, insert—

'Effect of QWA on awards and agreements

'91.(1) A QWA, during its period of operation—

(a) prevails over an award or industrial agreement to the extent of any inconsistency; and

(b) has no effect to the extent of any inconsistency with another agreement certified before it whose nominal expiry date has not passed.

'(2) An exceptional matters order prevails, to the extent of any inconsistency, over a QWA that was approved before the order was made.'

Amendment negated.

Clause 91, as read, agreed to.

Clauses 92 to 94 agreed to.

Clause 95 (*Industrial action by party to QWA*)—

The following amendment was proposed by Mr Braddy—

At page 89, after line 21—

insert—

'(2) Subsection (1) does not apply to industrial action taken in relation to an unsafe or unhealthy working environment.'

Amendment negated.

Clause 95, as read, agreed to.

Clause 96 agreed to.

Clause 97 (*Damages for contravention of QWA*)—

The following amendment was proposed by Mr Braddy—

At page 90, lines 12 to 17—

omit.

Amendment negated.

Clause 97, as read, agreed to.

Clause 98 (*Compensation to new employee for shortfall in entitlements*)—

The following amendment was proposed by Mr Santoro—

At page 91, line 6, 'this Act'—

omit, insert—

'an award, agreement or law mentioned in section 116(2)³'.

Amendment agreed to.

The following amendment was proposed by Mr Braddy—

At page 91, after line 18—

insert—

'(3) The enterprise commissioner must provide full legal assistance to an employee mentioned in subsection (1) or (2) to recover the shortfall.'

Amendment negated.

Clause 98, as amended, agreed to.

Clause 99 agreed to.

Clause 100 (*Meaning of expressions*)—

The following amendment was proposed by Mr Braddy—

At page 92, line 2, after 'employee'—

insert—

', or relevant employee organisation'.

Amendment negated.

Clause 100, as read, agreed to.

Clauses 101 to 106 agreed to.

Clause 107 (*Intervention not permitted*)—

The following amendment was proposed by Mr Braddy—

At page 95, lines 1 to 7—

omit, insert—

'Parties entitled to be heard

'107(1) A person who is—

- (a) a party to a QWA; or
- (b) a party's bargaining agent; or
- (c) the Minister; or
- (d) an employee organisation, if the organisation is bound by an award, industrial agreement or certified agreement that binds the employer for work performed in the enterprise;

must be allowed to make submissions, or be heard, in relation to the filing, approval, amendment or termination of a QWA.

'(2) At the request of an employee, the employee's employee organisation may sign a QWA on the employee's behalf.

'(3) This section does not affect any other right of an employee organisation or another entity to intervene or be heard on an application.'

Amendment negated.

Clause 107, as read, agreed to.

Clause 108 (*Hearings to be in private*)—

The following amendment was proposed by Mr Braddy—

At page 95, lines 8 to 10—

omit, insert—

'Hearings are to be public

'108. A hearing by an enterprise commissioner for this part must be held in public.'

Amendment negated.

Clause 108, as read, agreed to.

Clause 109 (*Identity of QWA parties not to be disclosed*)—

The following amendment was proposed by Mr Braddy—

At page 95, line 11 to page 96, line 4—

omit.

Amendment negated.

Clause 109, as read, agreed to.

Clause 110 (*Enterprise commissioner not to publish QWA decision or interpretation*)—

The following amendment was proposed by Mr Braddy—

At page 96, lines 5 to 9—

omit, insert—

'Commission must publish report about certain decisions and interpretations

'110. The commission must publish an annual report summarising decisions and interpretations about awards, certified agreements, industrial agreements, QWAs and ancillary documents.'

Debate ensued.

Question put – That the words proposed to be omitted stand part of the clause.

The Committee divided.

AYES, 43

Baumann
Beanland
Borbidge
Carroll*
Connor
Cooper
Davidson
Elliott
FitzGerald

Gamin
Gilmore
Goss, J
Grice
Harper
Healy
Hegarty
Hobbs
Horan

Johnson
Laming
Lester
Lingard
Littleproud
McCauley
Malone
Mitchell
Perrett

Quinn
Radke
Rowell
Santoro
Sheldon
Simpson
Slack
Springborg*
Stephan

Stoneman
Tanti
Veivers
Warwick
Watson
Wilson
Woolmer

NOES, 45

Ardill
Barton
Beattie
Bird
Bligh
Braddy
Bredhauer
Briskey
Campbell

Cunningham
D'Arcy
De Lacy
Dollin
Edmond
Elder
Foley
Fouras
Gibbs

Goss, W
Hamill
Hayward
Hollis
Livingstone*
Lucas
Mackenroth
McElligott
McGrady

*Tellers

Milliner
Mulherin
Nunn
Nuttall
Palaszczuk
Pearce
Purcell
Roberts
Robertson

Rose
Schwarten
Smith
Spence
Sullivan, J
Sullivan, T*
Welford
Wells
Woodgate

Question negated.

Amendment agreed to.

Clause 110, as amended, agreed to.

Clause 111 agreed to.

Clause 112 (*Interpretation of a QWA*)—

The following amendment was proposed by Mr Braddy—

At page 96, lines 22 to 25—

omit, insert—

'112. The commission may give an interpretation of a QWA on application by—

(a) a party to the agreement; or

(b) an employee organisation.'

Amendment negated.

Clause 112, as read, agreed to.

Clauses 113 to 115 agreed to.

Clause 116 (*When does an agreement pass the no-disadvantage test*)—

The following amendment was proposed by Mr Braddy—

At page 99, lines 17 to 22—

omit.

Amendment negated.

Clause 116, as read, agreed to.

Clauses 117 to 119 agreed to.

Clause 120 (*Determination of designated awards for certified agreement*)—

The following amendment was proposed by Mr Braddy—

At page 102, after line 16—

insert—

'(5) Despite section 362,⁴ an employer or organisation dissatisfied with a decision of the commission may appeal against the decision as of right to a full bench.'

Amendment negated.

Clause 120, as read, agreed to.

Clause 121 (*Determination of designated awards for QWA*)—

The following amendment was proposed by Mr Braddy—

At page 102, lines 27 and 28—

omit, insert—

'(4) The enterprise commissioner must inform the employer and the person in writing of the enterprise commissioner's determination and the reasons for the determination.

'(5) Despite section 362,⁵ the employer or person, or the employer's or person's representative, dissatisfied with a decision of the enterprise commissioner may appeal against the decision as of right to a full bench.'

Amendment negated.

Clause 121, as read, agreed to.

Clause 122 (*Objects of ch 3*)—

The following amendments were proposed by Mr Braddy—

At page 103, lines 8 to 12—

omit, insert—

'(b) awards act as a safety net of fair and relevant minimum or actual wages and employment conditions underpinning direct bargaining; and

⁴ Section 362 (Appeals from commissioner to full bench with leave)

⁵ Section 362 (Appeals from commissioner to full bench with leave)

- (c) awards are simplified and suited to the efficient performance of work according to the needs of particular workplaces or enterprises, having appropriate regard to the employee's interests; and'.

At page 103, after line 16—

insert—

- '(e) when making, reviewing or amending awards, regard is had to stable and appropriate relativities based on skill, responsibility, the conditions under which work is performed, and the need for skill-based career paths; and
- (f) the commission, in appropriate cases, makes and maintains paid rates awards that set fair and enforceable wages and employment conditions and keep them at a relevant level.'

Amendments negated.

Clause 122, as read, agreed to.

Clause 123 (*Performance of commission's functions under this chapter*)—

The following amendments were proposed by Mr Braddy—

At page 103, line 26 and page 104, lines 1 and 2—

omit, insert—

- '(a) the need to provide fair, secure, relevant and consistent wages and employment conditions for employees in the context of living standards generally prevailing in the community; and'.

At page 104, line 5, after 'paid—

insert—

'and those without the ability to bargain collectively'.

At page 104, line 7, after 'between'—

insert—

'or in'.

At page 104, after line 16—

insert—

'(f) the need to prevent and settle industrial disputes.'

Amendments negated.

Clause 123, as read, agreed to.

Clauses 124 to 126 agreed to.

Clause 127 (*Making, amending and repealing awards*)—

The following amendment was proposed by Mr Braddy—

At page 106, line 13—

omit.

Amendment negated.

Clause 127, as read, agreed to.

Clause 128 (*Allowable award matters*)—

The following amendment was proposed by Mr Braddy—

At page 107, lines 4 to 29 and page 108, lines 1 to 32—

omit.

Amendment negated.

Clause 128, as read, agreed to.

Clause 129 (*Limitation on commission's powers for awards*)—

The following amendments were proposed by Mr Braddy—

At page 109, lines 2 to 16—

omit.

At page 109, lines 21 to 23—

omit, insert—

'commission must fix the same wage rate as payable to persons of either sex for performing the same work, or work of a like nature and of equal value or productive of the same return of profit to their employer.'

Debate ensued.

Question put – That the words proposed to be omitted stand part of the clause.

The Committee divided.

AYES, 43

Baumann
Beanland
Borbidge
Carroll*
Connor
Cooper
Cunningham
Davidson
Elliott

FitzGerald
Gamin
Gilmore
Goss, J
Grice
Harper
Healy
Hegarty
Hobbs

Horan
Johnson
Laming
Lester
Lingard
Littleproud
McCauley
Malone
Perrett

Quinn
Radke
Rowell
Santoro
Sheldon
Simpson
Slack
Springborg*
Stephan

Stoneman
Tanti
Veivers
Warwick
Watson
Wilson
Woolmer

NOES, 43

Ardill
Barton
Beattie
Bird
Bligh
Braddy
Bredhauer
Briskey
Campbell

D'Arcy
De Lacy
Dollin
Edmond
Elder
Foley
Fouras
Gibbs
Goss, W

Hamill
Hayward
Hollis
Livingstone*
Lucas
Mackenroth
McElligott
Milliner
Mulherin

Nunn
Nuttall
Palaszczuk
Pearce
Purcell
Roberts
Robertson
Rose
Schwarten

Smith
Spence
Sullivan, J
Sullivan, T*
Welford
Wells
Woodgate

Pairs – Mr Mitchell (AYES) and Mr McGrady (NOES)

**Tellers*

The numbers being equal, The Chairman cast his vote with the 'AYES'.

Question agreed to.

Amendments negatived.

Clause 129, as read, agreed to.

New Clause 129A—

The following new clause was proposed by Mr Braddy—

At page 110, after line 3—

insert—

'Paid rates awards

'129A.(1) This section applies if—

- (a) the commission proposes to make an award that covers, or to amend an award so that it covers, particular employees in an employer's industry; and
- (b) the wages and employment conditions of the employees have customarily been determined by a paid rates award.

'(2) The commission must not make the award unless satisfied—

- (a) the matters to be dealt with would be more appropriately dealt with by the award rather than a certified agreement; or
- (b) there is no reasonable prospect of the matters being dealt with by a certified agreement.

'(3) If satisfied under subsection (2), the commission must make the award as a paid rates award so far as it relates to wages and employment conditions that have customarily been determined by a paid rates award, unless—

- (a) the commission is satisfied it would be against the public interest; or
- (b) the parties to the award have otherwise agreed.

'(4) The commission may—

- (a) repeal an award and replace it with a paid rates award; or
 - (b) amend a paid rates award so that it stops being a paid rates award;
- if satisfied, after giving a party an opportunity to be heard, that the party acted in a way that is so inconsistent with the award as to make it inappropriate for the award to continue as a paid rates award.

'(5) The commission must include in an award a statement that the award is a paid rates award if the commission—

- (a) makes a paid rates award; or
- (b) amends an award so that it becomes a paid rates award; or
- (c) amends a paid rates award, unless it already contains the statement.

'(6) If the commission amends a paid rates award so that it stops being a paid rates award, it must remove from the award the statement that the award is a paid rates award.

'(7) However, a failure to comply with subsection (6) does not affect the validity of the amended award.'

Debate ensued.

Amendment negatived.

Clauses 130 and 131 agreed to.

Clause 132 (*General rulings*)—

The following amendment was proposed by Mr Braddy—

At page 111, line 16, 'allowable award'—

omit, insert—

'industrial'.

At page 112, after line 19—

insert—

'Power to order superannuation contribution to particular fund

'132A.(1) If an industrial matter relates to an allegation that an employer has been, or is, making contribution on behalf of eligible employees to an occupational superannuation scheme or fund at a level required by any relevant award, industrial agreement, certified agreement or enterprise flexibility agreement, but the scheme or fund is not that required by the relevant award or agreement to be used for that purpose, the Industrial Commission—

(a) of its own motion; or

(b) on the application of an Industrial Inspector, industrial organisation or employee concerned;

may determine to which occupational superannuation scheme or fund the employer should have been, or should be, making such contribution on behalf of eligible employees to comply with the relevant award or agreement and may order the employer to make such contribution accordingly.

'(2) The Industrial Commission may make its order under subsection (1) to operate from the date on which any particular employee or employees became eligible for payment by the employer of contribution to the scheme or fund determined by the Commission, if the Commission considers it just to do so.

'(3) In exercise of its powers under subsection (1) the Industrial Commission may recognise all or any of the contribution made by an employer to an occupational superannuation scheme or fund on behalf of eligible employees up to and including the date of the Commission's determination under that subsection as having met the requirements, or any part thereof, of any relevant award, industrial agreement, certified agreement or enterprise flexibility agreement, relating to employers' contribution to an occupational superannuation scheme or fund on behalf of eligible employees.'

Amendments negated.

Clause 132, as read, agreed to.

Clause 133 (*Inclusion of enterprise flexibility provisions in awards*)—

The following amendment was proposed by Mr Braddy—

At page 113, lines 3 to 8—

omit, insert—

'award unless it is satisfied the amendment would not disadvantage the employees who would be affected by the amendment in relation to their employment conditions.

'(3A) An amendment disadvantages employees in relation to their employment conditions only if—

(a) it would result in the reduction of the employee's entitlements or protection under the award, another award or an industrial agreement; and

(b) in the context of their employment conditions considered as a whole, the commission considers the reduction is against the public interest.'

Amendment negated.

Clause 133, as read, agreed to.

Clauses 134 to 136 agreed to.

New Clauses 136A to 136N—

The following new clause was proposed by Mr Braddy—

At page 116, before line 2—

insert—

'Procedure for making industrial agreement

'136A.(1) An employee organisation may make an agreement in writing with an employer organisation, an association of employers, or any particular employer or employers in relation to any industrial matter.

'(2) The agreement, when made, must be immediately filed in the registrar's office.

'(3) The registrar must refer the agreement filed to the chief commissioner.

'(4) If the chief commissioner considers an agreement contains terms inconsistent with general full bench principles, the commissioner must allocate the agreement to a full bench.

'(5) Otherwise the chief commissioner is to allocate the agreement to the commission.

'(6) Subject to subsection (8), the commission or a full bench may—

- (a) approve an agreement referred to it under subsection (4) or (5);
- (b) after hearing the parties to the agreement, approve an agreement referred to it under subsection (4) or (5) with the exclusions or amendments it considers necessary;
- (c) refuse to approve an agreement referred to it under subsection (4) or (5) if the commission considers—
 - (i) the agreement contains a term that the commission is not authorised to include in an award; or
 - (ii) it is not in the public interest that the agreement be approved.

'(7) Approval of an agreement is not to be taken to be contrary to the public interest only because the agreement contains terms inconsistent with general full bench principles.

'(8) The powers conferred on the commission by subsection (6) do not extend to approving an agreement that contains terms based on terms of another agreement already approved, which latter terms are considered to be inconsistent with general full bench principles, unless the commission is satisfied that the inclusion of the terms in the agreement before it is justified in the particular circumstances of the case.

'(9) The commission may approve an agreement referred to it under subsection (5)—

- (a) of its own initiative;
- (b) without a hearing;

if—

- (c) the agreement does not contain terms considered to be inconsistent with general full bench principles; and
 - (d) the commission thinks fit to do so;
- except as is otherwise prescribed by subsection (8).

'(10) In this section—

“general full bench principles” means principles established by a full bench that apply in relation to the determination of wages and employment conditions, other than principles that apply in relation to the approval of agreements under this section.

'Industrial agreement subjected to conditions

'136B. If the commission, of its own initiative or on the application of—

- (a) the State; or
 - (b) the registrar; or
 - (c) a person bound by an award; or
 - (d) a person dissatisfied the industrial agreement in question;
- considers it advisable (in the public interest, or for other reason) to do so—
- (e) it may impose the conditions in relation to an industrial agreement it considers just and equitable;
 - (f) it may prohibit an employee organisation, or an employer, employer organisation or association of employers, from enforcing an industrial agreement, to the extent that it is, or has become, inconsistent with an award or a general ruling.

'Registration of industrial agreement

'136C. The registrar must register in the registrar's office every industrial agreement approved by the commission.

'Requirements of industrial agreement

'136D.(1) An industrial agreement—

- (a) is in force for the term specified in it, not exceeding 3 years from the date of its making;
- (b) is limited in its effect to the particular locality specified in it;
- (c) must state the date of its making and the names of all the original parties to it.

(2) The date of making of an industrial agreement is the date on which it is executed by the party to it who is first to execute it.

‘Continuance of industrial agreement

‘136E. At the end of its term, an industrial agreement continues in force, and to be binding on—

- (a) all parties to it, except a party who has retired from the agreement as permitted by section 142;
- (b) all other persons on whom the agreement is binding under section 141, subject to any relevant award.

‘Persons bound by industrial agreement

‘136F.(1) On its registration, an industrial agreement extends to and is binding on—

- (a) all parties to the agreement;
- (b) all members of an organisation that is a party to the agreement engaged in the calling to which the agreement relates;
- (c) all employees of an employer on whom the agreement is binding;
- (d) all members of an association of employers that is a party to the agreement; subject to sections 112 and 448.

(2) In this section—

“party” to an industrial agreement includes an employer who is a successor, assignee or transmittee (whether immediate or not) to or of the whole or part of the party’s business, including a corporation that has acquired or taken over the whole or part of the party’s business.

‘Retirement of parties from industrial agreement

‘136G.(1) A party to an industrial agreement, at any time after the expiry of the agreement, or within 30 days immediately before the day on which the agreement is to expire, may file in the registrar’s office a notice in accordance with the rules of court signifying an intention to retire from the agreement at the end of a specified period of at least 30 days from the date of the filing.

(2) On the termination of the specified period, the party that has filed the notice ceases to be a party to the industrial agreement.

‘Addition of parties to industrial agreement

‘136H. At any time when an industrial agreement is in force, an organisation or employer, subject to the consent of—

- (a) the commission; and
- (b) the original parties to the agreement who are still parties to it, or their representatives;

may become a party to the agreement by filing in the registrar’s office a notice in accordance with the rules of court signifying a concurrence with the industrial agreement.

‘Powers of commission about industrial agreements

‘136I.(1) The commission may, of its own initiative, or on application made under subsection (2)—

- (a) amend an industrial agreement; or
- (b) repeal an industrial agreement.

(2) Application to the commission for exercise of a power under subsection (1) may be made by—

- (a) the Minister; or
- (b) a party to the agreement; or
- (c) an organisation whose members are bound or claim to be affected or dissatisfied by the agreement; or
- (d) a person who is bound or claims to be affected or dissatisfied by the agreement and who satisfies the commission that the person is not an officer of, or acting for, an eligible association.

‘Agreement may be declared a common rule

‘136J.(1) The commission may declare that an industrial agreement, other than 1 that contains terms considered to be inconsistent with general full bench principles—

- (a) has the effect of an award; and
- (b) is a common rule for any calling to which the agreement relates.

(2) Before making the declaration, the commission must—

- (a) give notice of its proposal to make the declaration to all parties who it considers are likely to be affected by the declaration; and
- (b) hear any of the parties who oppose the proposal and wish to be heard.

'(3) On the declaration being made, the agreement becomes binding on all employers and employees (whether or not members of an organisation) engaged, while the agreement is in force, in a calling to which the agreement relates in the locality stated in the agreement.

'Agreement may be renewed, amended etc.

'136K.(1) An industrial agreement (the "original agreement") may be renewed, amended or repealed by a later industrial agreement made by all the parties to the original agreement but so that, while an industrial agreement is in force, a party to it can not be deprived of a benefit under it by a later industrial agreement to which the party is not a party.

'(2) However, if the original agreement is one to which a declaration under section 136B relates, a later agreement that purports to amend or repeal the original agreement has, to that extent, no effect except by the commission's leave.

'Commission must review awards and industrial agreements

'136L.(1) Each award or industrial agreement in force must be reviewed by the commission—

- (a) within 3 years after—
 - (i) it was made; or
 - (ii) if it was made before the commencement of this section—the commencement; and
- (b) within 3 years after it was last reviewed under this section.

'(2) After reviewing an award or industrial agreement, the commission must take the steps that may be prescribed under a regulation to remedy any of the following deficiencies found by it—

- (a) for an award of industrial agreement—
 - (i) the award or agreement contains a discriminatory provision;
 - (ii) the award or agreement contains obsolete or dated provisions;
 - (iii) the award or agreement is not structured in a way that is as easy to understand as the subject matter allows;
 - (iv) the award or agreement prescribes matters in unnecessary detail;
- (b) for an award—
 - (i) the award's terms are no longer appropriate having regard to the commission's functions under section 123(2)(a) to ensure the system of awards provides for secure, relevant and consistent wages and employment conditions;
 - (ii) the award is not written in plain English;
- (c) for an industrial agreement—the agreement's terms no longer provide for secure, relevant and consistent wages and employment conditions.

'(3) The steps prescribed may include amending the award or agreement after giving the party to the award or agreement who has a genuine interest in the matter an opportunity to be heard.

'Components of wage rates

'136M.(1) This section applies to a wage rate provided for by an award or industrial agreement (whether existing at the commencement of this Act or made after the commencement) as payable to adult employees, or employees who are seniors.

'(2) The wage rate is taken to consist of, and to be expressed by reference to—

- (a) the guaranteed minimum wage declared at the time of the award or agreement is or was made and a margin; or
- (b) if subsequently to the making of the award or agreement a declaration of a general ruling has been made that amends the guaranteed minimum wage—the guaranteed minimum wage as amended by the declaration and a margin.

'(3) This section does not apply to a wage rate provided for by an award or industrial agreement that immediately before the commencement of this Act provides for a wage rate equal to or less than the guaranteed minimum wage contained in the declaration of a general ruling last made before the commencement, until the wage rate provided for by the award or agreement

becomes greater than the guaranteed minimum wage last declared before the greater rate is provided for.

'Preservation of percentage rate values

'136N.(1) This section applies to an award or industrial agreement (whether existing at the commencement of this Act or made after the commencement) that—

- (a) provides for a wage rate as a percentage or fraction of a wage rate; and
- (b) contains a quantitative statement in terms of money of that rate purporting to be calculated as the percentage or fraction.

'(2) The award or agreement is to be construed as if the quantitative statement in terms of money of the rate did not appear.'.

Debate ensued.

Paper: Mr Braddy, during his speech, tabled the following paper—
Letter, dated 17 January 1997, from Weston Baked Foods to Honourable Santo Santoro

Debate continued.

Amendment negated.

Clause 137 (*Enforceability of awards*)—

The following amendments were proposed by Mr Braddy—

At page 116, line 2, after '**awards**'—

insert—

'or industrial agreements'.

At page 116, line 3, after 'award'—

insert—

'or industrial agreement'.

Amendments negated.

Clause 137, as read, agreed to.

Clause 138 (*Effect of appeals on awards*)—

The following amendments were proposed by Mr Braddy—

At page 116, line 5, after '**awards**'—

insert—

'or industrial agreements'.

At page 116, line 6, after 'award'—

insert—

'or industrial agreement'.

At page 116, line 7, after 'award'—

insert—

'or agreement'.

Amendments negated.

Clause 138, as read, agreed to.

Clause 139 (*Inconsistency between awards and contracts*)—

The following amendments were proposed by Mr Braddy—

At page 116, line 11, after '**awards**'—

insert—

'or industrial agreements'.

At page 116, line 12, after 'award'—

insert—

'or industrial agreement'.

At page 116, line 14, after 'award'—

insert—

'or agreement'.

At page 116, line 15, after 'award'—

insert—

'or agreement'.

At page 116, line 17, after 'award'—

insert—

'or agreement'.

At page 116, line 20, after 'award'—

insert—

'or agreement'.

Amendments negated.

Clause 139, as read, agreed to.

Clauses 140 to 143 agreed to.

Clause 144 (*When commission may make order*)—

The following amendment was proposed by Mr Braddy—

At page 118, after line 28—

insert—

‘(6) In subsection (3)(a)—

“**industrial instrument**” means an award, certified agreement or industrial agreement.’.

Amendment negatived.

Clause 144, as read, agreed to.

Clauses 145 to 157 agreed to.

Clause 158 (*Object of pt 3*)—

The following amendment was proposed by Mr Braddy—

At page 123, line 5, after ‘Convention’—

insert—

‘and the Family Responsibilities Recommendations’.

Amendment negatived.

Clause 158, as read, agreed to.

Clause 159 agreed to.

Clause 160 (*Definitions for pt 3*)—

The following amendment was proposed by Mr Braddy—

At page 124, line 16—

omit, insert—

‘(ii) an industrial agreement, industrial instrument or order; or’.

Amendment negatived.

Clause 160, as read, agreed to.

Clauses 161 to 178 agreed to.

Clause 179 (*Extending long paternity leave*)—

The following amendment was proposed by Mr Santoro—

At page 139, line 18, ‘4’—

omit, insert—

‘3’.

Amendment agreed to.

Clause 179, as amended, agreed to.

Clauses 180 to 188 agreed to.

Clause 189 (*Regulations for adoption leave*)—

The following amendment was proposed by Mr Santoro—

At page 144, lines 16 to 18—

omit, insert—

‘Entitlement to adoption leave

‘189. An employer must give eligible employees the unpaid adoption leave prescribed under a regulation.’.

Amendment agreed to.

Clause 189, as amended, agreed to.

Clauses 190 to 195 agreed to.

Clause 196 (*Long service leave for employees not governed by awards etc.*)—

The following amendment was proposed by Mr Santoro—

At page 151, line 24, ‘industrial instrument’—

omit, insert—

‘award, agreement’.

Amendment agreed to.

Clause 196, as amended, agreed to.

Clauses 197 to 203 agreed to.

Clause 204 (*Payment for long service leave—casual employees*)—

The following amendment was proposed by Mr Santoro—

At page 158, line 16, ‘6’—

omit, insert—

‘1’.

Amendment agreed to.

Clause 204, as amended, agreed to.

Clauses 205 to 209 agreed to.

New Clauses 209A to 209G—

The following new clauses were proposed by Mr Braddy—

At page 162, after line 1—

insert—

'Hours of work

'209A.(1) The periods for which an employee is required to work must not exceed the following periods—

- (a) 6 days in any period of 7 consecutive days;
- (b) 40 hours in any period of 6 consecutive days;
- (c) 8 hours in any day.

'(2) The rate at which an employee is to be paid for overtime, being time worked in excess of the times or hours prescribed by subsection (1) or before or after the fixed or recognised times for starting or finishing work on any day in a calling, is—

- (a) for a calling in or in connection with which more than 1 shift per day is worked—not less than double time;
- (b) for any other calling—not less than time and a half.

'(3) If the employee is paid a wage rate in excess of the minimum rate provided for by any industrial instrument, industrial agreement or EFA binding on the employee, the rate referred to in subsection (2) is to be calculated on the actual weekly wage rate payable to the employee at the relevant time and not on the minimum rate.

'(4) Subsections (2) and (3) do not apply in relation to employees in any department of government whose wage rate exceeds an annual wage rate for the time being declared by the Governor in Council.

'(5) Compensation, in respect of overtime worked, for an employee to whom subsection (4) does not apply is in the discretion of the chief executive of the department of government in which the employee is employed.

'(6) If practicable, an employee is entitled to a rest pause of not less than 10 minutes duration during each period of 4 hours working time on any day.

'(7) The rest pause—

- (a) is taken to be part of the employee's working time; and
- (b) is to be taken at a time that does not interfere with continuity of work, if continuity is necessary.

'(8) If an employee is engaged in an underground occupation or an occupation in which the conditions as to temperature, ventilation, lighting, and limitation of approaches are similar to those in an underground occupation—

- (a) the working time of the employee—
 - (i) is to include permitted intervals for rest and meals; and
 - (ii) is to be reckoned from bank to bank; and
 - (iii) without prejudice to the provisions of the *Coal Mining Act 1925*, is not to exceed 6 hours per day unless—
 - (A) a temperature less than 28.3°C, using a wet bulb, is maintained for at least $\frac{3}{4}$ of the period of the working shift in the workplace where the employee is occupied; or
 - (B) the workplace where the employee is occupied is thoroughly ventilated during the whole of the period of the working shift (or half-shift, as the case may be) by a current of air moving at a rate not less than that which can be measured with the instruments ordinarily used for that purpose; and
- (b) the employee is to be paid as for a full shift (or half-shift, as the case may be).

'Public holidays

'209B.(1) All work performed on any of the following days—

- New Year's Day (1 January)
- Australia Day (26 January)
- Good Friday
- Easter Saturday (the day after Good Friday)
- Easter Monday (the Monday after Good Friday)
- Anzac Day (25 April)
- Labour Day (the first Monday in May)
- Sovereign's birthday (the second Monday in June)

- Christmas Day (25 December)
- Boxing Day (26 December);

or any day appointed under the *Holidays Act 1983* to be a holiday in substitution for any of those days is to be paid for at the rate of double time and a half with a minimum of 4 hours.

'(2) All work performed in a district for the time being specified by the Minister, by industrial gazette notice, on the day appointed under the *Holidays Act 1983* as a holiday for an annual agricultural, horticultural or industrial show held in the district is to be paid for at a rate of double time and a half, with a minimum of 4 hours.

'(3) Subsection (2) is not to be construed to confer on an employee, while continued in employment by the same employer, or taken to be continued in the employment under this part, an entitlement to be paid at a rate prescribed for work performed on a day mentioned in subsection (4), on more than 1 occasion in each calendar year.

'(4) For subsection (1) or (2), if a wage rate is a weekly rate, the expression "**double time and a half**" means 1.5 days wages in addition to the weekly rate provided for by the relevant industrial instrument, industrial agreement or EFA, and pro rata if there be more or less than a day.

'(5) All time worked on a holiday for which the employee is entitled to be paid at a rate prescribed by subsection (1) or (2) outside the period between the ordinary starting and ordinary finishing times provided for by the relevant industrial instrument, industrial agreement or EFA for the day of the week on which the holiday falls is to be paid for at double the rate provided for by the instrument or agreement for the time worked outside the period on an ordinary working day.

'(6) The commission may, by its order, confer on an employee an entitlement to additional annual leave on full pay, in lieu of an entitlement to extra payment for work performed as prescribed by subsection (1) or (2).

'(7) An employee, other than a casual employee, in a calling governed by the relevant industrial instrument, industrial agreement or EFA who would ordinarily be required to perform work as an employee in the calling on the day on which Labour Day (the first Monday in May), or other day appointed under the *Holidays Act 1983* to be a holiday in substitution for that day, falls is entitled to be paid a wage at ordinary rates for the time for which the employee would ordinarily have been required to perform work on that day between the ordinary starting and ordinary finishing times provided for by the relevant industrial instrument, industrial agreement or EFA, notwithstanding that work is not performed on that day.

'Sick leave

'209C.(1) Every employee is entitled to at least 1 weeks sick leave for each completed year of the employee's employment with an employer.

'(2) For each completed period of employment with an employer less than 1 year every employee is entitled to 1 days sick leave for each completed 2 months of the period.

'(3) Every employee absent from work through illness is entitled, subject to this section, to payment in full for all time the employee is so absent from work (not exceeding the accumulated sick leave to which the employee is entitled) if—

- (a) the employee has produced to the employer a doctor's certificate as to the nature of the employee's illness and the period, or approximate period, during which the employee will be unable to work, or other evidence of illness to the employer's satisfaction; and
- (b) the employee has promptly notified the employer of the illness and of the approximate period during which the employee will be unable to work.

'(4) A failure to comply with subsection (3)(a) does not affect an employee's entitlement to payment as prescribed if the absence from work on account of illness does not exceed 2 days.

'(5) An employee is not entitled to receive, and an employer is not bound to make, payment for more than 7 weeks absence from work through illness in any year.

'Annual leave

'209D.(1) Every employee becomes entitled, at the end of each year of employment by the same employer, to annual leave on full pay for a period determined or approved by the commission.

‘(2) Annual leave is exclusive of any public holiday that occurs during the period of the leave.

‘(3) In calculating a year of employment for subsection (1)—

- (a) a period exceeding 3 months during which an employee has been absent on leave without pay granted by the employer is not to be taken into account; and
- (b) a period during which an employee has been absent without pay and without the employer's authority, other than a period of absence not exceeding 3 months on account of illness or injury certified to by a doctor, is not to be taken into account.

‘(4) If an employee and employer agree, annual leave may be taken wholly or partly in advance before the employee has become entitled to annual leave.

‘(5) An employee who has taken in advance the whole of the annual leave that would be due at the end of a year of employment, is not entitled to any further annual leave at the end of that year of employment.

‘(6) An employee who has taken in advance part of the annual leave that would be due at the end of a year of employment, becomes entitled at the end of that year of employment to the part of the annual leave not already taken.

‘(7) If the commission has not determined or approved the period of annual leave to which an employee is to become entitled, an employee is to become entitled to annual leave as prescribed by this section for a period of leave to which the employee would have become entitled under a declaration of a general ruling of 9 November 1973 made by the commission under the *Industrial Conciliation and Arbitration Act 1961*.

‘(8) An employer and employee may agree as to the time when and the way in which the employee's annual leave is to be given and taken.

‘(9) Unless an employer and employee otherwise agree, an employer may give an employee notice, which must be of at least 14 days, of the date on and from which the employee's annual leave is to be taken, and the employee is to comply with the notice.

Payment for annual leave

‘209E.(1) Annual leave is to be paid for by the employer—

- (a) for an employee who immediately before taking the leave is in receipt of ordinary pay at a rate in excess of the ordinary rate payable under the relevant industrial instrument, industrial agreement or EFA—at the rate of the ordinary pay;
- (b) for any other employee—at the ordinary rate payable to the employee under the relevant industrial instrument, industrial agreement or EFA immediately before the leave is taken.

‘(2) The leave must be paid in advance.

Payment in lieu of annual leave

‘209F. If the employment of an employee who has become entitled to annual leave provided for by sections 209D and 210 is terminated by the employer or the employee, and the employee has not taken the whole of the leave, the employee is presumed to have taken the leave or, as the case may be, the remainder of the leave on and from the date of the termination of the employment and the employer is to forthwith pay to the employee (in addition to all other sums due to the employee) the employee's ordinary pay for the period of the leave or, as the case may be, the remainder of the leave and for all public holidays that would occur during the period.

Pro rata annual leave

‘209G.(1) If the employment of an employee by an employer is terminated, the employer must pay the employee pro rata annual leave for every period of employment less than 1 year.

‘(2) The period must be computed from the date of commencement of the employment or, if the employee has, during the employment, become entitled to annual leave provided for by sections 209D and 210, from the date on which the employee last became entitled to the leave.’

Debate ensued.

Question put – That New Clauses 209A to 209G be inserted.

The Committee divided.

AYES, 43

Ardill	D'Arcy	Hamill	Nunn	Smith
Barton	De Lacy	Hayward	Nuttall	Spence
Beattie	Dollin	Hollis	Palaszczuk	Sullivan, J
Bird	Edmond	Livingstone*	Pearce	Sullivan, T*
Bligh	Elder	Lucas	Purcell	Welford
Braddy	Foley	Mackenroth	Roberts	Wells
Bredhauer	Fouras	McElligott	Robertson	Woodgate
Briskey	Gibbs	Milliner	Rose	
Campbell	Goss, W	Mulherin	Schwarten	

NOES, 43

Baumann	FitzGerald	Horan	Quinn	Stoneman
Beanland	Gamin	Johnson	Radke	Tanti
Borbidge	Gilmore	Laming	Rowell	Veivers
Carroll*	Goss, J	Lester	Santoro	Warwick
Connor	Grice	Lingard	Sheldon	Watson
Cooper	Harper	Littleproud	Simpson	Wilson
Cunningham	Healy	McCauley	Slack	Woolmer
Davidson	Hegarty	Malone	Springborg*	
Elliott	Hobbs	Perrett	Stephan	

Pairs – Mr McGrady (AYES) and Mr Mitchell (NOES)

**Tellers*

The numbers being equal, The Chairman cast his vote with the 'NOES'.

Question negatived.

Clauses 210 to 212 agreed to.

Clause 213 (*Objects of ch 5*)—

The following amendment was proposed by Mr Braddy—

At page 164, lines 11 to 16—

omit, insert—

'(c) by establishing the procedures, remedies and sanctions, to help give effect to—

- (i) the Termination of Employment Convention; and
- (ii) the Termination of Employment Recommendation; and
- (iii) the Discrimination (Employment and Occupation) Convention; and
- (iv) the Discrimination (Employment and Occupation) Recommendation; and
- (v) the Family Responsibilities Convention; and
- (vi) Family Responsibilities Recommendation.'

Amendment negatived.

Clause 213, as read, agreed to.

Clauses 214 and 215 agreed to.

Clause 216, heading (*Exclusion of employees from part*)—

The following amendment was proposed by Mr Santoro—

At page 165, line 14, 'part'—

omit, insert—

'chapter'.

Amendment agreed to.

The following amendment was proposed by Mr Braddy—

At page 166, lines 4 and 5—

omit, insert—

'(5) The regulations may exclude particular employees from the operation from particular provisions of this chapter only if the exclusion—

- (a) relates to the categories of employees mentioned in paragraph 2 of article 2 of the Termination of Employment Convention; and
- (b) is limited to provide the safeguards required by paragraph 3 of article 2.'

Amendment negatived.

Clause 216, as amended, agreed to.

Clause 217 (*When dismissal is unlawful*)—

The following amendment was proposed by Mr Santoro—

At page 166, line 11, after 'temporary absence'—

insert—

' , within the meaning of a regulation, '.

Amendment agreed to.

Clause 217, as amended, agreed to.

Clause 218 agreed to.

Clause 219 (*Conciliation before application heard*)—

The following amendment was proposed by Mr Santoro—

At page 168, line 1, after ‘applicant’—

insert—

‘, employee’.

Amendment agreed to.

Clause 219, as amended, agreed to.

Clauses 220 and 221 agreed to.

Clause 222 (*Remedies and sanctions for unlawful dismissal*)—

The following amendment was proposed by Mr Santoro—

At page 170, lines 11 to 14—

omit, insert—

‘(a) must not award an amount that is more than—

- (i) if the employee is not employed under an industrial instrument, industrial agreement or EFA—the lesser of the remuneration under subparagraph (ii) and an amount prescribed under a regulation; or
- (ii) otherwise—the remuneration the employer would have been liable to pay the employee for the 6 months immediately after the dismissal, paid at the rate the employee received immediately before the dismissal; and’.

Amendment agreed to.

The following amendment was proposed by Mr Braddy—

At page 170, lines 28 to 31 and page 171, lines 1 and 2—

omit.

Amendment negatived.

Clause 222, as amended, agreed to.

Clauses 223 and 224 agreed to.

Clause 225 (*Costs*)—

The following amendment was proposed by Mr Braddy—

At page 172, lines 6 to 9—

omit, insert—

‘(3) In this section “**costs**” includes legal and professional costs and disbursements and witness expenses, where the commission has certified under section 350.⁶

‘(4) The costs awarded by the commission under this section must not exceed those prescribed under the *Magistrates Courts Act 1921*.’.

Amendment negatived.

Clause 225, as read, agreed to.

Clause 226 (*Notice of dismissal or compensation*)—

The following amendments were proposed by Mr Santoro—

At page 172, after line 18—

insert—

‘(1A) Misconduct under subsection (1)(b) includes—

- (a) theft; and
- (b) assault; and
- (c) fraud; and
- (d) other misconduct prescribed under a regulation.

‘(1B) However, subsection (1A) does not apply if the employee can show that, in the circumstances, the conduct was not conduct that made it unreasonable to continue the employment during the notice period.’.

At page 173, after line 15—

insert—

‘(5A) A regulation may prescribe the amount that is taken to be payable, or how to work out the amount, under an employment contract mentioned in subsection (5)(c), to an employee whose remuneration before dismissal was determined wholly or partly on the basis of commission or piece rates.’.

Amendments agreed to.

Clause 226, as amended, agreed to.

New Clause 226A—

The following new clause was proposed by Mr Braddy—

At page 174, after line 5—

insert—

'Opportunity to defend against allegations before dismissal

'226A.(1) An employer may dismiss an employee for reasons related to the employee's conduct, capacity or performance only if the employer first gives the employee a reasonable opportunity to defend against the allegations made.

'(2) Subsection (1) does not apply if the employer could not reasonably be expected to give the employee the opportunity.'

Amendment negatived.

Clauses 227 to 231 agreed to.

Clause 232 (*Definitions for pt 5*)—

The following amendment was proposed by Mr Santoro—

At page 179, line 1, after 'WorkCover'—

insert—

'Queensland'.

Amendment agreed to.

Clause 232, as amended, agreed to.

Clauses 233 to 239 agreed to.

Clause 240 (*Action on industrial dispute*)—

The following amendments were proposed by Mr Braddy—

At page 182, lines 22 to 25—

omit, insert—

'(b) remit the dispute, or part of it, to a magistrate for the exercise of the magistrate's powers under this Act for the prevention or prompt settlement of the dispute; or'

At page 183, lines 11 to 13—

omit, insert—

'(b) if the parties agree—must immediately hear the dispute and exercise the magistrate's powers for the prevention or prompt settlement of the dispute; and'

At page 183, lines 20 to 22—

omit, insert—

'(a) must immediately hear the dispute and exercise the magistrate's powers for the prevention or prompt settlement of the dispute; and'

Amendments negatived.

Clause 240, as read, agreed to.

Clauses 241 and 242 agreed to.

Clause 243 (*Compulsory conference*)—

The following amendments were proposed by Mr Braddy—

At page 185, line 3, 'conference'—

omit, insert—

'conciliation conference'.

Amendment negatived.

Clause 243, as read, agreed to.

Clauses 244 and 245 agreed to.

Clause 246 (*Nonparticipation in industrial action*)—

The following amendment was proposed by Mr Braddy—

At page 188, lines 10 to 14—

omit, insert—

'(3) An offence under subsection (1)(b) or 2(b) is committed only where it is proved—

(a) that an imposition or threat was made; and

(b) that the reason for the imposition or threat is the failure to take part in the strike or lockout.'

Amendment negatived.

Clause 246, as read, agreed to.

Clause 247 agreed to.

Clause 248 (*Payments for strikes*)—

The following amendment was proposed by Mr Santoro—

At page 189, after line 28—

insert—

‘(8) In this section—

“**strike**” does not include the failure to perform work in excess of that required under a relevant industrial instrument, industrial agreement or EFA.’.

Amendment agreed to.

Clause 248, as amended, agreed to.

Clause 249 agreed to.

Clause 250 (*Commission not to deal with claims for payments for strikes*)—

The following amendment was proposed by Mr Santoro—

At page 190, line 27, after ‘strike’—

insert—

‘within the meaning of section 248.7’.

Amendment agreed to.

Clause 250, as amended, agreed to.

Clause 251 (*Right to refuse to work if imminent health or safety risk*)—

The following amendment was proposed by Mr Braddy—

At page 191, after line 11—

insert—

‘(2) If attendance is required at another workplace that is further from the employee’s home than the normal workplace, the employer must pay the employee for any additional cost incurred in travelling to the other workplace.

‘(3) The employer must also pay the employee for any additional time taken to travel to another workplace at the employee’s normal hourly rate of pay.’.

Amendment negated.

Clause 251, as read, agreed to.

Clauses 252 to 260 agreed to.

Clause 261 (*Court may refuse to proceed*)—

The following amendments were proposed by Mr Braddy—

At page 195, at line 15—

omit, insert—

‘(a) involved in an industrial dispute related to the proceeding; or’.

At page 195, lines 20 and 21—

omit.

Amendments negated.

Clause 261, as read, agreed to.

Clauses 262 and 263 agreed to.

Clause 264 (*Establishment of advisory council*)—

The following amendments were proposed by Mr Braddy—

At page 196, line 26 and page 197, line 1—

omit, insert—

‘(d) officers or employees of employer organisations; and’.

At page 197, lines 2 and 3—

omit, insert—

‘(e) officers or employees of employee organisations; and

At page 197, lines 6 to 8—

omit, insert—

‘(4) The members mentioned in subsection (3)(d) to (f) (the “**appointed members**”) are to be appointed by the Minister.

‘(5) The members mentioned in subsection (3)(d) and (e) are to be appointed only after the Minister requests and receives nominations from appropriate Peak Councils and industrial organisations of employers and employees for the members mentioned in subsection (3)(d) and (e).

‘(6) The members mentioned in subsection (3)(f) are to be appointed only after consultation by the Minister with the president.

‘(7) The Minister must appoint the same number of members from subsection (3)(d) as the Minister appoints from persons mentioned in subsection (3)(e).’.

Amendments negated.

Clause 264, as read, agreed to.

Clauses 265 to 269 agreed to.

Clause 270 (*Composition*)—

The following amendment was proposed by Mr Braddy—

At page 198, lines 8 to 13—

omit, insert—

'(1) The commission consists of at least 7 industrial commissioners ("commissioners"), 1 of whom is the chief industrial commissioner (the "chief commissioner").'

Amendment negated.

Clause 270, as read, agreed to.

Clauses 271 to 281 agreed to.

Clause 282 (*Commission may refuse to proceed*)—

The following amendments were proposed by Mr Braddy—

At page 203, line 21—

omit, insert—

'(a) involved in an industrial dispute related to the proceeding; or'

At page 204, lines 1 and 2—

omit.

Amendments negated.

Clause 282, as read, agreed to.

Clause 283 to 286 agreed to.

Clause 287 (*Commission's functions*)—

The following amendment was proposed by Mr Braddy—

At page 205, lines 8 to 11—

omit, insert—

'(i) an effective and relevant award safety net of fair minimum wages and conditions; and

(ii) a system of non-discriminatory awards; and'

At page 205, lines 13 and 14—

omit, insert—

'(c) determining industrial instruments; and'

Amendment negated.

Clause 287, as read, agreed to.

Clauses 288 to 290 agreed to.

Clause 291 (*Power to grant injunctions*)—

The following amendment was proposed by Mr Braddy—

At page 208, after line 17—

insert—

'(f) an industrial organisation.'

Amendment negated.

Clause 291, as read, agreed to.

Clauses 292 and 293 agreed to.

Clause 294 (*Procedures for reopening*)—

The following amendment was proposed by Mr Braddy—

At page 212, lines 11 to 18—

omit, insert—

'(c) an organisation whose members are bound by, or claim to be affected by or dissatisfied with the proceeding; or

(d) a person who is bound by or claims to be affected by or dissatisfied with the proceeding, and who satisfies the commission that the person is not an officer of, or acting for, an eligible association.'

Amendment negated.

Clause 294, as read, agreed to.

Clauses 295 to 301 agreed to.

New Clause 301A—

The following amendment was proposed by Mr Braddy—

At page 218, after line 2—

insert—

'Industry Consultative Councils

'301A. In this section—

"industry" includes—

(a) a business, trade, manufacture, undertaking or calling of employers; and

- (b) a calling, service, employment, handicraft, industrial occupation or vocation of employees; and
- (c) a branch of an industry and a group of industries.
- ‘(2) The commission must encourage and assist the establishment and effective operation of consultative councils for particular industries.
- ‘(3) The commission must encourage the participants in an industry to use the relevant consultative council—
 - (a) to develop measures to improve efficiency and competitiveness in the industry; and
 - (b) to address barriers to workplace reform in the industry.
- ‘(4) To promote the effective operation of a consultative council for an industry, a commissioner may, if the chief industrial commissioner agrees—
 - (a) chair the council's meetings; or
 - (b) take part in the council's discussions; or
 - (c) nominate another commission member to chair the council's meetings or take part in its discussions.
- ‘(5) The chief industrial commissioner may agree only if the chief industrial commissioner is satisfied the council properly represents—
 - (a) industrial organisations, and associations, of employers in the industry; and
 - (b) industrial organisations of employees in the industry.’.

Amendment negatived.

Clauses 302 to 311 agreed to.

New Clause 311A—

The following amendment was proposed by Mr Braddy—

At page 224, after line 2—

insert—

‘Power of industrial magistrate concerning unpaid superannuation contribution

‘**311A.(1)** An industrial magistrate, on application made by—

- (a) an industrial inspector; or
- (b) an employee who is an eligible employee on whose behalf contribution to an approved occupational superannuation scheme or fund is required by any award, industrial agreement, certified agreement or enterprise flexibility agreement to be paid by an employer; or
- (c) an industrial organisation of employees of which such an employee is a member;

may order an employer who has failed to pay contribution to an approved superannuation scheme or fund on behalf of any eligible employee or employees, as required by a relevant award, industrial agreement, certified agreement or enterprise flexibility agreement to pay—

- (d) the amount of contribution that is unpaid; and
- (e) an amount that, in the opinion of the industrial magistrate, is just and fair, based on the return that would have accrued in respect of such contribution had it been duly paid to such scheme or fund.

‘(2) The order must require the amount to be paid to—

- (a) if the employee is employed by the employer—an approved occupational superannuation fund relevant to the employee's employment; or
- (b) if the employee is no longer employed by the employer—
 - (i) an approved occupational superannuation fund relevant to the employee's employment with that employer; or
 - (ii) a complying superannuation fund; or
 - (iii) a superannuation fund nominated by the employee; or
 - (iv) an eligible rollover fund; or
 - (v) if the amount is less than the amount of total benefits that may revert to an employee under the *Superannuation Industry (Supervision) Act 1993* (Cwlth)—the employee.

‘(3) If the former employee in relation to whom an order is made—

- (a) cannot be located after all reasonable inquiries; or
- (b) fails to nominate a superannuation scheme or fund for the purpose of the order;

the sum ordered to be paid must be paid into the Unclaimed Moneys Fund in the Treasury.

'(4) On application for an order under subsection (1) an industrial magistrate—

- (a) may order payment on such terms as the industrial magistrate thinks fit;
- (b) may make an order for costs in an amount assessed by the industrial magistrate, or make no order for costs, as the industrial magistrate considers just.'

Amendment negatived.

Clauses 312 to 331 agreed to.

Clause 332 (*Starting proceedings*)—

The following amendment was proposed by Mr Braddy—

At page 232, line 11—

omit.

Amendment negatived.

Clause 332, as read, agreed to.

Clause 333 agreed to.

Clause 334 (*Representation of parties*)—

The following amendment was proposed by Mr Braddy—

At page 234, after line 28—

insert—

'(3A) Nothing in subsection (3) is to be interpreted as a means of circumventing subsection (1) or (2).

Question put – That the words proposed to be inserted be so inserted.

The Committee divided.

AYES, 44

Ardill	Cunningham	Goss, W	Mulherin	Schwarten
Barton	D'Arcy	Hamill	Nunn	Smith
Beattie	De Lacy	Hayward	Nuttall	Spence
Bird	Dollin	Hollis	Palaszczuk	Sullivan, J
Bligh	Edmond	Livingstone*	Pearce	Sullivan, T*
Braddy	Elder	Lucas	Purcell	Welford
Bredhauer	Foley	Mackenroth	Roberts	Wells
Briskey	Fouras	McElligott	Robertson	Woodgate
Campbell	Gibbs	Milliner	Rose	

NOES, 42

Baumann	Gamin	Johnson	Rowell	Turner
Beanland	Gilmore	Lester	Santoro	Veivers
Borbidge	Goss, J	Lingard	Sheldon	Warwick
Carroll*	Grice	Littleproud	Simpson	Watson
Connor	Harper	McCauley	Slack	Wilson
Cooper	Healy	Malone	Springborg*	Woolmer
Davidson	Hegarty	Perrett	Stephan	
Elliott	Hobbs	Quinn	Stoneman	
FitzGerald	Horan	Radke	Tanti	

Pairs – Mr McGrady (AYES) and Mr Mitchell (NOES)

**Tellers*

Amendment agreed to.

Clause 334, as amended, agreed to.

Clauses 335 to 374 agreed to.

Clause 375 (*Complementary laws*)—

The following amendment was proposed by Mr Santoro—

At page 259, lines 12 and 13, from 'part' to 'part'—

omit, insert—

'parts IVA and VID and the other provisions of that Act as far as they relate to the parts'.

Amendment agreed to.

Clause 375, as amended, agreed to.

Clause 376 to 493 agreed to.

Clause 494 (*Repeals*)—

The following amendment was proposed by Mr Santoro—

At page 334, after line 26—

insert—

'(2) A proclamation commencing this section may fix different days or times for the repeal of different provisions of an Act to be repealed under subsection (1).

'(3) One or more further proclamations may be made fixing different days or times for the repeal of different provisions of the Act until the Act is entirely repealed.'

Amendment agreed to.

Clause 494, as amended, agreed to.

Clauses 495 to 500 agreed to.

New Clause 500A—

The following amendment was proposed by Mrs Cunningham—

At page 388, after line 17—

insert—

'Limited continuation of awards after the interim period

'500A.(1) This section applies to a person who, immediately before the end of the interim period, was receiving an entitlement under an award that is not an allowable award matter.

(2) Despite section 500, the entitlement is taken to be included in the award and may be enforced as if it were in the award.

(3) This section expires 1 year after the end of the interim period.'

Amendment agreed to.

Clauses 501 to 515 agreed to.

Schedules 1 to 5 agreed to.

Limitation of debate: And the time allotted for the consideration of the remaining stages of the Bills having expired—

Industrial Organisations Bill—

Question – That all clauses, schedules and amendments circulated by the Minister for Training and Industrial Relations (Mr Santoro) be agreed to, *viz—*

Clauses 1 to 9.

Clause 10—

At page 22, after line 4—

insert—

'(g) there is no organisation to which members of the association might belong, or no organisation—

(i) to which the members of the association could more conveniently belong; and

(ii) that would effectively represent those members.'

At page 22, after line 11—

insert—

'(4) Without limiting the matters the commission may take into account in considering, under subsection (1)(g)(ii), the effectiveness of the representation of an organisation, it must take into account whether the representation would be consistent with the objects of this Act.'

Clauses 11 and 12.

Clause 13—

At page 25, line 5, '**Cwlth s 205**'—

omit.

Clauses 14 to 22.

Clause 23—

At page 31, line 20, 'section 190(2)'—

omit, insert—

'section 195(2)'.
'

Clauses 24 to 36.

Clause 37—

At page 42, line 11, before 'organisation's'

insert—

'employee'.

At page 42, line 31, after 'if'—

insert—

', for an employee organisation,'.

Clauses 38 to 64.

Clause 65—

At page 60, line 8, 'and'—

- omit, insert—*
'or'.
- Clauses 66 to 93.
- Clause 94—
 At page 82, line 20, 'not'—
omit.
- Clauses 95 to 124.
- Clause 125—
 At page 108, lines 6 to 9—
omit, insert—
 '(2) A 'yes' case must not be more than 2 000 words.'
- Clauses 126 to 138.
- Clause 139—
 At page 116, line 10, 'appeal'—
omit, insert—
 'appear'.
- Clauses 140 to 168.
- Clause 160—
 At page 127, line 12, 'of employees'—
omit.
- Clauses 161 to 168.
- Clause 169—
 At page 133, line 18, 'election'—
omit, insert—
 'ballot'.
- Clauses 170 to 172.
- Clause 173—
 At page 136, line 20, 'appeal'—
omit, insert—
 'appear'.
- Clauses 174 to 187.
- Clause 188—
 At page 146, lines 8 and 10, '189'—
omit, insert—
 '187'.
- Clause 189.
- Clause 190—
 At page 149, line 5, '(f)'—
omit, insert—
 '(g)'.
- Clauses 191 to 203.
- Clause 204—
 At page 158, line 6, 'and'—
omit, insert—
 'or'.
- Clauses 205 to 218.
- Clause 219—
 At page 168, line 9, after 'information'—
insert—
 'or'.
- Clauses 220 to 245.
- Clause 246—
 At page 195, after line 15—
insert—
 '(5) However, a contravention of this part is not an offence.'
- Clauses 247 to 288.
- Clause 289—
 At page 217, line 18, 'subsection (1)(c)'—
omit, insert—
 'subsection (1)(b)'.
- Clauses 290 to 292.

Clause 293—

At page 219, lines 12 to 14—

omit.

Clause 294—

At page 219, after line 21—

insert—

'(c) make provision about candidates disclosing campaign funds for elections.'

Clauses 295 to 304.

Schedules 1 and 2.

Schedule 3—

At page 235, line 8—

omit, insert—

'**"Commonwealth Act"** means the *Workplace Relations Act 1996* (Cwlth).'

Question agreed to.

Bills, as amended, agreed to.

Bills to be reported with amendments.

Mr Speaker resumed the Chair.

Bills reported with amendments.

Bills, as amended, *ordered* to be taken into consideration.

Mr Santoro moved – That the Bills be read a third time.

Bills read a third time and passed.

Titles agreed to.

6 SPECIAL ADJOURNMENT

Leader of Government Business (Mr FitzGerald) moved – That the House at its rising do adjourn to a date and at a time to be fixed by Mr Speaker in consultation with the Government of the State.

Question put and passed.

7 ADJOURNMENT

Leader of Government Business (Mr FitzGerald) moved – That this House do now adjourn.

Question put and passed.

The House adjourned at 7.02pm.

8 ATTENDANCE

The following Members were present—

Ardill	De Lacy	Hegarty	Mulherin	Smith
Barton	Dollin	Hobbs	Nunn	Spence
Baumann	Edmond	Hollis	Nuttall	Springborg
Beanland	Elder	Horan	Palaszczuk	Stephan
Beattie	Elliott	Johnson	Pearce	Stoneman
Bird	FitzGerald	Laming	Perrett	Sullivan, J
Bligh	Foley	Lester	Purcell	Sullivan, T
Borbidge	Fouras	Lingard	Quinn	Tanti
Braddy	Gamin	Littleproud	Radke	Veivers
Bredhauer	Gibbs	Livingstone	Roberts	Warwick
Briskey	Gilmore	Lucas	Robertson	Watson
Campbell	Goss, J	Mackenroth	Rose	Welford
Carroll	Goss, W	McCauley	Rowell	Wells
Connor	Grice	McElligott	Santoro	Wilson
Cooper	Hamill	McGrady	Schwarten	Woodgate
Cunningham	Harper	Malone	Sheldon	Woolmer
D'Arcy	Hayward	Milliner	Simpson	
Davidson	Healy	Mitchell	Slack	

N J TURNER
Speaker

R D DOYLE
The Clerk of the Parliament