Speech by

Hon. P. BRADDY

MEMBER FOR KEDRON

Hansard 6 August 1998

WORKPLACE RELATIONS AMENDMENT BILL

Hon. P. J. BRADDY (Kedron—ALP) (Minister for Employment, Training and Industrial Relations) (12.01 p.m.): I move—

"That the Bill be now read a second time."

It is with great pleasure that I introduce to the House the Workplace Relations Amendment Bill 1998. This Amendment Bill honours our Government's pre-election commitments to repeal the harshest aspects of the Workplace Relations Act 1997 enacted by the previous Government, and will precede a comprehensive review of the industrial relations legislation and systems in Queensland. Our Government is committed to the establishment of a modern and progressive system of industrial relations which promotes stability and economic growth and development for the Queensland economy. Importantly, it will also be a system that recognises the need to achieve job security, jobs growth and fair wages and employment conditions in a framework focused on achieving an equitable balance between social and economic objectives for industry, employers, employees and the Queensland community.

Recently the Government announced the establishment of an expert, representative, independent task force to review the State's industrial relations laws. Its task will be to consult widely on the development of new industrial relations laws that will take this State into the 21st century. As part of this comprehensive review, opportunities will be provided for public submissions and input, including, importantly, in our regional and rural areas throughout Queensland. Following this review, the Government will introduce new industrial relations legislation to Parliament.

However, honourable members should be aware that the Government also made some pre-election commitments on industrial relations that require immediate legislative action. The Workplace Relations Amendment Bill gives effect to some of these pre-election commitments. They include a commitment to the maintenance of a viable, relevant and up-to-date award system and the repeal of certain harsh and unfair aspects of the current legislation, in particular, the provisions for Queensland Workplace Agreements—QWAs.

I turn now to the objectives of the amendments to the current legislation. This Bill contains the following four key elements—

the provision for wages and conditions of employment to be protected through a viable, relevant and up-to-date award system, through ensuring new and existing awards are able to cover all relevant industrial matters and are not restricted to the 20 allowable matters contained in section 128 of the Workplace Relations Act 1997;

the provision for general conditions of employment to be maintained in awards and agreements, by ensuring that the existing general conditions of employment contained in the Industrial Relations Act 1990 are continued in force;

the removal of provisions regarding the making, approving, amending and extending of any further QWAs, while providing transitional arrangements for the agreements and other related provisions; and

extending the period of the operation of the Industrial Relations (Protection from Invalidities) Act 1991, pending a comprehensive review of the industrial relations system, and thereby ensuring

maintenance of the status quo for the period of the review in relation to registered employer and employee industrial organisations.

Removal of provisions restricting awards to 20 allowable matters

This Government is firmly committed to ensuring that wages and conditions of employment are protected through a viable, relevant and up-to-date award system, through the maintenance of awards that have the capacity to cover all aspects of the employment relationship, as well as being one of the primary vehicles for determining wages and conditions. It is therefore necessary to undertake immediate legislative action to halt the award stripping process, which will otherwise occur if the present Act is not amended prior to 27 September 1998.

The current legislation provides for an interim 18 month period during which awards are to be stripped back to 20 allowable award matters. This interim period ends on 26 September this year. After this time, any award provision that is not "allowable" will cease to have effect. The consequence of these provisions, if not immediately amended, will be to substantially reduce the extent to which the award system provides for employee entitlements in relation to wages and conditions of employment. For example, and based on the Federal experience, the award stripping process if allowed to continue in this State, would lead to the removal of existing requirements for employers to consult with employees on the introduction of change at the workplace with a view to minimising redundancies and terminations. It would also remove the requirement for employers to give employees notice of any terminations which may occur, including the requirement that discussions take place prior to redundancies.

Consultation with employees and notice periods are essential to ensure that workers have valid input into workplace changes, including minimising terminations, putting in place redeployment and retraining programs and through ensuring all efforts are made to maximise employment security and the viability of the business. The removal of these employee rights and entitlements from State awards will only serve to undermine employment security—a backward step in the current environment of industry and workplace restructuring. In an economic climate where job insecurity and industry downsizing are prevalent, the stripping of these requirements and employee rights would be a retrograde step.

The failure of the stripping back of awards can be evidenced from the Commonwealth arena. In the federal jurisdiction, the 18 month interim period under the Commonwealth Workplace Relations Act 1996 for awards to be reviewed concluded on 30 June this year. At the end of the interim period under the Commonwealth Act, only 63 of approximately 3,137 awards representing only 2% of all Federal awards, had been amended. Additionally, the Australian Industrial Relations Commission is still hearing cases to determine what is and what is not an allowable award matter. These uncertainties are creating a chaotic and confusing system for both employers and employees who are unsure of their obligations and entitlements under the award system—chaos and confusion which has been created through a mandatory review of their awards, and brought about through burdensome legislative changes.

In the Queensland jurisdiction, no State award has been amended to comply with the restrictions in the current legislation, which will limit awards to 20 allowable matters, even though the interim period under the State Act commenced on 27 March 1997. Under the State legislation, if no action is taken to stop the reduction of award entitlements before 26 September, the State's 320 or so awards will stop having effect to the extent that they cover "non-allowable" matters.

There has also been no determination made by the Queensland Industrial Relations Commission to enable industrial parties to define an "allowable" or "non-allowable matter" for Queensland awards. As a direct result Queensland employers and employees will be placed in a more chaotic and uncertain position than their federal counterparts. Without the amendments contained in this Bill, no employer or employee can legally establish what will be enforceable or unenforceable in a State award.

Further to this, with the expiry of the interim period on 26 September 1998, the Queensland legislation also provides for existing employees to retain non-allowable conditions for a further year. This in itself may result in two employees doing the same work in the same workplace, yet being subject to different employment conditions. This is clearly inequitable and it can be expected that confusion and conflict at individual workplaces will result.

The removal of the award-stripping process from the State legislation is particularly important given that in Queensland State awards cover approximately 55% of employees. This indicates that the award-stripping process will have a substantial impact on Queensland workplaces if it is allowed to continue. Further, employees in regional and rural Queensland, who are largely employed under the award structure, could face a reduction in the terms and conditions of their employment as a result of the restriction of awards.

On this point, the removal of the award-stripping process will have particular benefit to rural and regional workers. The 1995 Australian Workplace Industrial Relations Survey indicates that, while only

20% of Queensland metropolitan workers rely solely on their award for their entitlements, 51% to 52% of rural and regional workers are covered solely by awards, highlighting the importance of retaining a strong and viable award system to protect their conditions. It should also be noted that in the 1995 Australian Workplace Industrial Relations Survey, 70% of small business agreed that the award system had worked well. The removal of award stripping from the legislation will then remove the burdensome process instituted upon both employers and employees through this long and drawn-out process and particularly alleviate pressures on small businesses forced to partake in these reviews.

This Government is committed to maintaining the award system, both with minimum rates and paid rates awards, while removing excessive legislative restrictions placed upon the appropriate determination of wages and conditions of employment for employers and employees. Our Government is of the belief that these matters are best left for the industrial parties and the Queensland Industrial Relations Commission to determine through either the award system or collective bargaining.

It would be clearly premature to allow this stripping of awards to occur while the review of the legislation is under way. Our Government believes that these amendments, which will ensure that awards are not limited to 20 allowable award matters, are vital if we are to establish an industrial relations system for the future that is founded on ensuring justice, fairness and equity for all Queensland workers.

The current legislation also preserves certain general conditions of employment for an interim period of 18 months, which expires on 26 September 1998. These general conditions of employment were contained in the former Industrial Relations Act 1990 and relate to hours of work, public holidays, sick leave, annual leave, payment for annual leave, payment in lieu of annual leave, and pro rata annual leave. If this amendment legislation is not assented to prior to 27 September this year, these general conditions will cease to apply to awards and certified agreements that do not already make provision for them. Consequently, this will lead to a further loss of entitlements and conditions of employment for Queensland employees.

One of the most harsh and unfair aspects of the existing legislation is the provision for the making of QWAs. These individual agreements, made between employers and employees, are secret and are not subject to public scrutiny. This means that QWAs are often made with employees who have little or no knowledge of what other employees who work alongside them are receiving. The secrecy of these agreements ensures that there has been no public debate on the advantages or disadvantages of this form of contract.

A major failing of QWAs is that they do not recognise the unequal bargaining power which exists in the workplace, particularly for those most vulnerable in the community. For example, employees working on a casual or part-time basis, apprentices and trainees, and young job seekers are particularly vulnerable as they are likely to have little bargaining power. Many of these workers have no choice in the current economic climate but to sign a QWA as a precondition for their job with little understanding of their rights and their entitlements. QWAs have the potential to create inferior wages and conditions for these workers as well as many other workers who are subject to the pressures associated with a highly competitive labour market.

This amendment Bill seeks to remove as a matter of urgency these secret individual contracts to prevent further exploitation of workers in our community and restore some sense of balance between employers and employees in our industrial system. The amendments will stop the making, approving, amending and extending of any further QWAs. The implementation of these arrangements will provide that QWAs may no longer be made from the date of commencement of the legislation. However, it is reasonable that QWAs which have been approved and are operating be continued for a short period of time to allow an orderly transition to new employment arrangements. These QWAs will continue until 31 December 1998, unless terminated in the meantime. Obligations and rights accruing under a QWA will be able to be enforced until 31 December 1999.

The introduction of QWAs under the current legislation has been a dismal failure since their inception 17 months ago. The Department of Employment, Training and Industrial Relations has prepared on my request a preliminary report on the effect of the introduction of Queensland Workplace Agreements. This report identifies that there are currently 1,516 approved QWAs operating in the system covering 245 individual employers. Of note is that the number of QWAs approved over the past 17 months represents only 0.2% of the total number of workers covered by Queensland awards and agreements. This is in stark contrast to the 46.8% of employees covered by certified agreements currently registered with the Queensland Industrial Relations Commission.

Mr Speaker, the length of this speech is such that I seek leave to table the balance of my speech and have it incorporated in Hansard.

Leave granted.

A further analysis of the QWA database compiled for this Report shows that the average annual wage increase granted in the agreements was 2.6% in comparison to the average annual wage increase for employees under Certified Agreements of 4.1% over the same period.

Mr Speaker, of particular note also is that 57.8% of QWAs gave employees no wage increase at all. The Honourable Members should understand that these employees while receiving no wage increase for the period of their QWA will also receive no award safety net adjustments which other low paid workers access under the award system. This is simply because an employee under a QWA is not entitled to any award condition where this is not specified in the Agreement. It is very clear Mr Speaker that the continuation of QWAs will amplify the low wages and exploitation of many Queensland workers hidden behind the secrecy of these Agreements.

The Report also identifies that when comparing the content of QWAs and certified agreements, the focus of QWAs has been on repackaging award entitlements such as removal of overtime provisions, increasing hours of work, removal of allowances and removal or decreases to penalty rates rather than introducing genuinely innovative changes to the workplace. In direct comparison, the focus of collective certified agreements has been to focus on achieving improvements in the workplace with particular emphasis paid to training, occupational health and safety, productivity improvements, multiskilling and career paths.

Mr Speaker it is significant that QWAs have not been used to achieve workplace reform. The stark difference for employees between these secret individual contracts and collective certified agreements is that by acting collectively, employees can to some extent shift the balance of bargaining power. Genuine workplace reform can only be achieved based on high level cooperation between all the parties in industrial relations. Meaningful reform requires employee participation and meaningful employee participation requires collective employee action. This clearly can not be established on an individual basis.

The quantitative analysis of QWAs in this Report indicates that the way of individual agreements is the way to break down employees' wages and conditions of employment. It is the way to exploit the weak and vulnerable in the labour market who have no choice or understanding of their rights. But importantly, it has been a dismal failure proven through the poor uptake of individual agreements. What employers want is a simple regulatory system in which they know what their rights and responsibilities are to employees. Employees want a simple system in which they know what their rights and entitlements are. Where there are needs for changes to the award regulatory system, these should be achieved by consensus and agreement and these should be reflected in collective agreements which embrace the entire workplace based on real workplace reform and efficiencies.

In summary Mr Speaker, the following conclusions can be reached from this Report into the effect of QWAs on Queensland workers:

- There has been no significant, widespread uptake of QWAs;
- QWAs offer no compelling benefits for the majority of Queensland workers covered by them;
- In general, QWAs have focused on repackaging award provisions relating to hours of work and overtime, but compared to Certified Agreements have introduced no significant reform measures or innovations to improve the productivity of Queensland workplaces;
- There have been no significant improvements in conditions of employment for workers covered by QWAs in contrast to workers employed under Certified Agreements; and
- In some industries QWAs have been used to introduce industry-wide practices while circumventing the award process.

Thus it is clear that QWAs have not been successful for either employers or employees within Queensland. The repeal of QWAs from the legislation will remove the secret and inequitable forms of agreements which can create inferior wages and conditions, particularly for those most vulnerable in the community. This Government's clear preference for agreements which is to be pursued through the Industrial Relations Taskforce is for employers and employees to achieve workplace efficiencies and flexibilities through a new flexible system of collective agreements open to the public scrutiny process which may either cover industry wide arrangements or individual workplaces.

Mr Speaker, individual contracts are not the way of the future for a caring and compassionate society. A society which should recognise that we need to implement systems which are contingent upon addressing structural forms of disadvantage and inequalities.

Mr Speaker, industrial relations is a system which regulates how and when and in what way work is to be done. It is part of the essential fabric of our community. In Australia and in Queensland, labour law has always incorporated a significant social dimension.

The way of the collective, which this Government believes is the way forward, recognises that, although economic factors are important in our lives, we do not live in an economy, we live in a community. Our communities' well-being depends on economic growth and prosperity within Queensland. But we also know that this is not enough.

Our Government's industrial system will recognise that a key cornerstone of a fair and just system is a system founded on collectivism standing alongside the rights and liberties of individuals. Our Government's vision will be for a system for our future and for the next century.

Extension of the period of operation of the Industrial Relations (Protection from Invalidities) Act 1991

Mr Speaker, the amendment legislation will also maintain the status quo of the Industrial Relations (Protection from Invalidities) Act 1991, until the review by the Industrial Relations Taskforce is completed. This Act provides a process to enable the validation of some otherwise invalid actions of State-registered unions and employer organisations, arising out of joint operations with their counterpart federal organisations. On the expiry of the Act on 28 February 1999, these actions will no longer be validated. This may have the consequence of making affected industrial organisations more vulnerable to challenges to the validity of their existence, representation rights and actions.

At this stage, only a few industrial organisations have separated their affairs. It is anticipated that the majority of industrial organisations will find it difficult to separate their affairs by the expiry date of 28 February 1999. Furthermore, the review of industrial relations legislation currently being undertaken will address this issue and it is therefore appropriate to extend the expiry date in order to allow full consideration of any recommendations arising from the review.

Conclusion

Mr Speaker, clearly this Bill will simplify and reduce the legislative burden on employers and employees through the removal of provisions relating to allowable award matters and QWAs, as well as retaining the status quo of general employment conditions and the Industrial Relations (Protection from Invalidities) Act, until a comprehensive review of the legislation is completed.

The amendments sought in this Bill will restore some sense of balance to workers' rights and entitlements. These are fundamental commitments on which my Government draws the line in the sand, while we develop a forward looking system capable of meeting the needs of the Queensland labour force and industry now and into the twenty first century.

Mr Speaker, this Bill represents the first step towards the establishment of a just and practical industrial relations system, which will ensure that all employees enjoy a reasonable standard of living and have secure and satisfying employment.

I commend the Bill to the House.