



Speech by

Hon. PETER BEATTIE

MEMBER FOR BRISBANE CENTRAL

Hansard 6 August 1998

STATUTORY INSTRUMENTS AMENDMENT BILL

Hon. P. D. BEATTIE (Brisbane Central— ALP) (Premier) (11.42 a.m.): I move—

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

This Labor Government is committed to making good laws for Queenslanders and we intend to focus on this right from the start. Tidying up outdated laws is just as important as crafting new legislation. The Bill I introduce to the House today will make an important legislative reform even better. I refer to the system introduced by 1994 amendments to the Statutory Instruments Act 1992 under which subordinate legislation automatically expires after ten years, unless specifically exempted.

The true extent of subordinate legislation, which affects the lives and rights of Queenslanders, was unknown. Vast numbers of antiquated regulations, Orders-in-Council, by-laws and other obsolete instruments, were still legally in force.

On 1 July this year, this anomalous situation came to an end. Honourable members will recall that my predecessor tried to defer that long-overdue day by a further two years but that attempt was rejected by this House. As this reform has been implemented, people have raised some concerns about the legislation and have made suggestions to streamline its administration.

This Bill is designed to deal with those concerns and further ease the administrative burden. As I have mentioned, the Statutory Instruments Act 1992 allows for subordinate legislation, which would otherwise expire, to be exempted for certain periods. Exemptions can be made by regulation under this Act or by Acts of Parliament. Exemptions will prevent the needless re-making of subordinate legislation that is already under review or being re-drafted, or that is part of a scheme of legislation with another jurisdiction.

In essence, subordinate legislation which is being re-drafted or will not be replaced may be exempted for a non-renewable period of up to 12 months. Subordinate legislation which is complementary or uniform with the legislation of another State or Territory or with the Commonwealth, may be exempted for renewable terms of up to five years. The first exemption by regulation under this Act was made in May. However, when the regulation was being drafted it became clear that the provisions of the legislation were potentially ambiguous. For example, some provisions of a regulation may be re-made under the same Act. Other provisions of the same regulation, however, may become part of new regulations under other Acts which are being drafted or are before Parliament.

This raises the question, is the regulation being replaced or not? This ambiguity could open the door to litigation seeking to have significant subordinate legislation ruled invalid on technical legal grounds. It is clearly not the intention of Parliament to create such uncertainty which could erode public confidence in an important legislative reform. This Bill seeks to remedy this situation in two ways. First, it will insert a declaratory provision in the Act which states the Parliament's intention that the exempting regulation made earlier this year is, and always has been, valid. Second, it removes any potential ambiguity in the wording relating to exemptions.

This is done by clarifying the meaning of 'replace' in the Act and by removing the requirement to choose one of two reasons for a one-year exemption. To provide greater clarity of drafting, the provisions for a renewable five-year exemption are separated from the one-year exemption provisions. Honourable members will recall I mentioned that the Bill also streamlines the administration of

automatic expiry. This is primarily through a new provision which means all subordinate legislation, affected by the automatic expiry provisions, will expire on the same day of the year.

This is what we might like to call a 'horse's birthday' provision—punters among us here will know that all horses are deemed to have been born on the first day of the first August after their actual birth. The Bill provides that all subordinate legislation expires on the first day of the first September, 10 years after the legislation has been made. This means that just one exempting regulation needs to be made each year. This will considerably reduce the administrative workload on the Office of the Queensland Parliamentary Counsel and administering departments.

This provision will take effect from 1 January 1999, meaning there will be no change to existing arrangements with departments about expiry of legislation made in 1988 and before. It is true that the life of some expiring instruments may be extended for some months beyond the 10 years provided for in the existing Act when this provision comes into force.

I am sure, however, that honourable members will see the sense of reducing administrative costs and will note this amendment does not in any way weaken the force of the automatic expiry reform. I commend the Bill to the House.
