Speech by

Hon. P. BRADDY

MEMBER FOR KEDRON

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MINISTERIAL STATEMENT

Employee Entitlements

Hon. P. J. BRADDY (Kedron—ALP) (Minister for Employment, Training and Industrial Relations) (9.58 a.m.), by leave: The protection of employee entitlements in cases of business insolvency is a priority issue for the Beattie Labor Government. Workers deserve, and indeed should expect, fundamental rights such as a healthy and safe work environment and fair and decent wages and conditions of employment. Workers also deserve to expect that their wages, their accrued annual leave, long service leave, superannuation and other entitlements—hard worked for and accrued earnings and rights—are guaranteed, even when their employer becomes insolvent. Unfortunately, for what appears to be a growing number of workers—evidenced through employer insolvency cases such as the Oakdale mine, the Cobar mine, Grafton abattoir and the Rockhampton St Andrews Private Hospital—this is, sadly, no longer the case.

On coming to office in June 1998, our Government has been seeking to find a national solution to the protection of employee entitlements in cases of employer insolvency. After months of deferring the issue, and only after much publicity, pressure and campaigning, Federal Minister Reith was forced into a backflip by his own Federal Cabinet to allow the Oakdale miners access to funding to pay out their full entitlements through the Coal Industry Long Service Leave Fund. The weight of public opinion again forced Reith to release a discussion paper outlining options to protect entitlements for all employees.

I inform the House today of the Queensland Government's response to this important community issue. Our Government is committed to the prompt implementation of measures to comprehensively address the problem of the loss of employee entitlements in the case of insolvency through guaranteeing employee entitlements and cracking down on deliberate employer avoidance. To this end, the Queensland Labor Government supports five overarching principles to guide the establishment of such a system—

1. It is a fundamental obligation for employers to pay all accrued employee entitlements.
2. There is a need to establish a comprehensive national scheme to protect employee entitlements.
3. The system needs to be fair and equitable for both employers and employees.
4. All employees should be covered by the scheme.
5. The scheme should be easy to access with timely payments to affected employees.

The ultimate objective in addressing this issue must be to seek to reclaim the full extent of employees' earnings and entitlements. Consideration must also be given to the introduction of stronger anti-avoidance measures and to the development and expansion of industry trust funds. It is also clear that this is an issue where business is not only legally but morally obligated to pay all accrued employee entitlements. Accrued employee entitlements should not be something to be viewed by employers as simply a business risk. Employees should expect to be guaranteed payment of their entitlements without them being gambled away or lost through insolvency.

In addition, whether the scheme is funded or established as an insurance or compensation scheme, it also must only be introduced as an adjunct to measures aimed at significantly reducing the extent of entitlements lost. Tough anti-avoidance measures must be introduced to prevent the deliberate manipulation of corporate structures and insolvency to misappropriate employees' earnings, such as occurred in the Patrick case.

State and Federal Attorneys-General have been considering proposals for amendment to the Corporations Law to allow for the prosecution of directors of companies that seek to avoid employee entitlements. My colleague Attorney-General Matt Foley, along with the other Labor Attorneys-General from New South Wales and Tasmania, has been pressing at SCAG meetings for some time for such reforms. However, the Federal Government must commit to other measures to allow for unpaid entitlements to be recovered from related corporate entities and in appropriate circumstances from executive officers.

The Queensland Industrial Relations Act 1999 does provide a model to establish appropriate legislative measures in this area through provision to prosecute for unpaid wages through company directors. It is clear that directors must be called to account for insolvent trading in deliberately contrived circumstances. Mechanisms should also be put in place to actively encourage the establishment of industry trust funds. The trust fund approach involves employers, on an individual or industry-wide basis, holding the accrued entitlements of their employees in trust so that other creditors have no claims against these funds in the event of insolvency. Precedent for this model clearly exists. The resolution of the Oakdale miners is a prime example of the payout of unpaid entitlements from an industry long service leave fund.

The construction industry in Queensland is also a case in point. This industry is relatively well serviced in terms of secured entitlements through a range of statutory and non-statutory funds, such as the Portable Long Service Leave Fund, the Building Employees Redundancy Trust and the Building Union Superannuation Funds. These are examples of industries managing their entitlements responsibly and effectively on an accrual basis. The costs have become negligible to individual employers over a period of time and, in some cases, have become self-funded. This has meant no ongoing costs to business—saving them money, guaranteeing security of entitlements for workers and allowing for the reinvestment of excess funds back into the industry through initiatives such as the skills development and training programs. It is clear that further examination must be undertaken of these existing schemes to develop proposals for the more widespread establishment of such schemes. This would include, for example, the consideration of contribution mechanisms, such as the existing superannuation schemes, regulatory schemes and methods to encourage a high level of employer participation.

While the Beattie Labor Government has been attempting to have this matter addressed in a comprehensive manner, Reith and his Federal Cabinet colleagues have only recently sought to do something about this issue. The Reith ministerial discussion paper itself has been hastily cobbled together. It is lacking in vital statistical and financial information, and no consultation has been undertaken with the insurance industry, which has expressed great reserve at the feasibility of some of the Reith proposals. The financial backing of the proposed schemes clearly requires further and detailed consideration, given that both options being proposed expect State Governments to contribute 50% of total Government contributions, either for full funding of the scheme or on behalf of small business.

Reith has also arrogantly proposed to link the passage of legislation to protect employee entitlements to his divisive and unfair second-wave workplace relations amendments, which he wants in place by 1 January 2000. Instead, Reith should convene an urgent meeting of all relevant Commonwealth and State Ministers to work through the details of the proposals—something which this Government has sought to do through the meetings of the Attorneys-General and the Workplace Relations Ministerial Council for the past 12 months.

It is only through the cooperation of the States and the Commonwealth that Australian employees and employers will get an acceptable scheme that fairly protects employee entitlements and which is both fair and balanced.