Speech by

Hon. JUDY SPENCE

MEMBER FOR MOUNT GRAVATT

Hansard 3 April 2001

COMMUNITY SERVICES LEGISLATION AMENDMENT BILL

Hon. J. C. SPENCE (Mount Gravatt—ALP) (Minister for Families and Minister for Aboriginal and Torres Strait Islander Policy and Minister for Disability Services) (6.30 p.m.): I move—

That the bill be now read a second time.

I am pleased to introduce the Community Services Legislation Amendment Bill 2001. This bill amends both the Community Services (Aborigines) Act 1984 and the Community Services (Torres Strait) Act 1984, which provide for the establishment and operation of Aboriginal and Torres Strait Islander councils. These councils are equivalent to local governments, established under the Local Government Act 1993, and provide local government to 32 Aboriginal and Torres Strait Islander communities across Queensland. The Community Services (Torres Strait) Act 1984 also provides for the establishment and operation of the Island Industries Board. The board is also known by its registered business name as the Islanders Board of Industry and Service, or the acronym IBIS.

This bill will address deficiencies and dated provisions in the community services acts. Included in the bill are provisions to improve financial accountability in regard to the loan-making powers of Aboriginal and Islander councils and to increase the maximum penalty that can be stipulated in a by-law of an Aboriginal or Islander council. Also included are provisions to improve the corporate governance and the commercial prospects of the Island Industries Board. The Auditor-General's Report No. 5 of 1999-2000 revealed that outstanding loans made by Aboriginal and Islander Councils to community residents totalled $880,000, or 7.1 per cent, of Aboriginal and Islander councils' total gross debts at 30 June 1999.

The bill provides clarification in relation to the current uncertainty as to the exact circumstances in which Aboriginal and Islander councils have power to make loans, and it also addresses previously identified inadequacies in due process employed by some Aboriginal and Islander councils in relation to the making of personal loans.

The bill requires a lending policy to be in place before an Aboriginal or Islander council can make loans. To ensure that lending policies are consistent with established standards of financial management practice, the bill provides for the minister to make accounting standards on the content of a lending policy and to include a model policy, in full or in part, in proposed Aboriginal and Islander council accounting standards. As a further safeguard to protect community funds, the bill proposes that the minister be required to approve any proposed lending policy on the basis of whether or not the proposed lending policy complies with the accounting standards. The purpose of the proposed lending provisions is to assist councils and benefit the Aboriginal and Torres Strait Islander residents of council areas.

The bill also increases the maximum penalty that can be stipulated for breach of an Aboriginal or Islander council by-law, from the existing seven penalty units (currently $525) to 20 penalty units (currently $1,500). The maximum penalty under the by-laws has not been changed since the community services acts were made in 1984. In 1999 the existing penalty of $500 was converted to seven penalty units through a machinery amendment, meaning that the amount will now rise with inflation. However, it is considered that this amount is inadequate and is no longer commensurate with the type of offences under the by-laws.

The increased maximum penalty relates to the penalty that councils can stipulate for a by-law offence when they are adopting new by-laws. Therefore, it will not automatically flow on to existing Aboriginal and Islander council by-laws. Any increase in penalties in existing by-laws will require the amendment of a council's by-laws. New by-laws are subject to community scrutiny and must be approved by the Governor in Council.

As a complementary initiative to this provision the department is currently preparing a completely new set of model by-laws, including law and order by-laws, for Aboriginal and Islander councils. The new model by-laws will significantly enhance the powers of Aboriginal and Islander councils to address land and natural resource management, environmental health and sly-grogging. The proposed increase in maximum penalties will assist in the effective enforcement of the proposed new by-laws and will contribute to an improved quality of life for community residents.

In regard to the Island Industries Board, the House will be aware of the substantial losses incurred in 1998-99 and 1999-2000 and the concerns expressed by me and the Auditor-General about the governance and general conduct of the board's affairs. As soon as I became aware of the board's difficulties I initiated a review of the board's situation and prospects. I required that the board provide an action plan for its financial recovery and the protection of the interests of its creditors.

In developing the recovery strategy for the Island Industries Board it became obvious that part of that strategy involved amending the legislative provisions concerning the board's membership structure and how it functioned. In particular, it was clear that the amendments should reflect the need to provide for the management of a significant business enterprise.

The Island Industries Board operates two supermarkets, 16 general stores, a service station, a travel agency, services airline passengers using Horn Island airport with transfers, baggage handling and ticketing services, and runs a car hire business. Annual sales approximate $26 million. Not only is it a complex collection of commercial businesses; in many cases it is the sole or major supplier of food and other essential supplies for those living on the outer islands in the Torres Strait. This imposes demands on the board to have sound commercial judgment, apply business acumen, be mindful of the special role the organisation plays in the region and comply with the obligations it has as a statutory body under Queensland legislation. Consequently, there are substantial requirements placed on board members. The proposed changes to the legislation will provide for a new board that has a minimum size of only five members instead of eight and a structure that is more attuned to the needs of a modern corporation.

At the same time, the interests of the Island communities as affected stakeholders continue to be specifically recognised. In this regard the bill provides for the recommendation to the Governor in Council for the appointment of two members who have been proposed, among a panel of five, by the Island Coordinating Council. Within a board of five, the other three members would be recommended to the Governor in Council following consideration of prospective board members who are best able to make a contribution to the good governance and management of the Island Industries Board.

The bill specifically requires that all board members have commercial or management skills and experience or other skills and experience relevant to the performance of the board's functions. Overall, the changes will shift the emphasis on the board's skills firmly in favour of the business skills consistent with the demands placed on a substantial business organisation.

In order that the board can function more like a modern board of directors of a corporation, provision has been made, for example, to assist with the conduct of board meetings, address concerns about members who fail to attend meetings, provide for a non-executive chairperson, address issues such as the disclosure of interests and bankruptcy of members, and provide for meetings of members by way of appropriate communications technologies. The proposed amendments also limit the appointment of a person to no more than two consecutive terms as chairperson. The legislation will retain the minister's ability to recommend to the Governor in Council that all members be dismissed and that an administrator be appointed should circumstances require such action.

The legislation currently provides the opportunity to island councils, either on their own behalf or on behalf of members of their community resident in the area, to request that the business of the local Island Industries Board store be transferred to them. Currently it may be possible that the board could agree to such a transfer without the expressed approval of the responsible minister. This is unsatisfactory, because not only are state assets being transferred but also the viability of the Island Industries Board could be affected. In addition, if an Island council were the recipient of the local store such an additional responsibility could place undue strain on the council and put at risk its own financial position, with further consequences for the government and the Queensland taxpayer. Consequently, the bill provides for the requirement that the minister must have given prior written approval before the board can enter into any such transfer.

The Community Services Legislation Amendment Bill 2001 will significantly improve the legislative framework for Aboriginal and Islander councils and the Island Industries Board. It will result in

improved financial accountability and enhanced community development and will progress the cause of reconciliation in Queensland. I commend the bill to the House.