



Speech by

Hon. Margaret Keech

MEMBER FOR ALBERT

Hansard Thursday, 15 March 2007

ASSOCIATIONS INCORPORATION AND OTHER LEGISLATION AMENDMENT BILL

Hon. MM KEECH (Albert—ALP) (Minister for Tourism, Fair Trading, Wine Industry Development and Women) (5.59 pm), in reply: I thank all honourable members for their contribution to the Associations Incorporation and Other Legislation Amendment Bill 2006. As we have heard, there are more than 20,000 associations in Queensland. I think during today's debate we have heard about most of them—not quite the 20,000, but we have heard about all the favourite sporting clubs, the favourite social clubs and also some of the other unusual and non-traditional clubs, as the member for Yeerongpilly has regaled us with. Whether the associations are more traditional or are a little more unusual with a very small number of members, members are incredibly proud of the work that these associations do in their electorates in serving the people of Queensland.

As the minister in the Beattie government who is introducing this bill, I recognise the excellent work the volunteers do in our community. Most of the 20,000 or so associations are made up of volunteer members. The work that they do, the contribution that they make to our community in making it a better place, is really outstanding. We have heard a lot about the amount of money that these associations save the government and the taxpayers of Queensland. I know all members have expressed their pride and gratitude to the 20,000 associations who together make Queensland a much better place to live, work and play.

The bill has two objectives: to ensure that mandatory public liability insurance cover is relieved and also to address the issues with respect to auditing requirements. Other amendments in the bill will help to reduce disputes between members of an association and improve compliance with the act. The bill also strengthens the ability of the Office of Fair Trading to monitor the activities of associations and take appropriate action to enforce the act. These new provisions will ensure that associations are complying with the objectives in the interests of their membership. A number of other amendments have the potential to reduce disputes and ensure transparency between members of an association and the management committee.

The bill contains those quickly achievable goals which will reduce costs and red tape. The second stage of the review, as I have already indicated, will address more complex issues and will involve further examination and consultation to ensure that we build a contemporary legislative framework for Queensland associations. I would now like to refer to some of the issues raised by the member for Clayfield and other members of this House.

When the member for Clayfield stands up to speak on one of the bills that I am introducing he has a template which begins with 'it has taken too long'. In this instance, I cannot comment on what has happened with regard to the review of the act before I became minister. But since I have been the minister, since 2004, I am satisfied that the extensive consultation between the associations and experts, and the good work that the Office of Fair Trading has done, has been done within good time frames. It is not an area that should be rushed. That is why I believe the policy we have here and the bill is to be highly commended.

We have put the issues into two stages for a very good reason and that is—and I refer to the member for Clayfield—that the larger associations asked the government not to rush quickly into new amendments. The issues with respect to large associations with millions of dollars of turnover, such as RSL clubs and other large clubs, need to be taken on very carefully because there are large ramifications—for example, if those clubs were forced to be moved from the Associations Incorporation Act to the Corporations Act. That is a commitment I have given to those larger clubs, and I am very pleased that the government has fulfilled this commitment.

The member for Clayfield raised the point about the interaction between the bill and the Corporations Act. The bill retains the mandatory public liability insurance requirement for associations which own or lease land. The member spoke of the possibility of such associations avoiding this mandatory requirement by incorporating another entity as a company limited by guarantee, transferring the land or lease to that entity and then negotiating to still use the land under a licence. It is not possible to legislate to avoid associations using the Corporations Act in such a way to avoid this mandatory requirement in the bill. However, many associations which own or lease land would be likely to continue holding public liability insurance even if they were not subject to a mandatory requirement to do so simply on the basis of good internal governance and standard risk management practices. There is therefore very little likelihood that relevant associations would devise such an elaborate licence-back arrangement to avoid having to hold public liability insurance.

The member also criticised the government for not using this bill to address the identified need to streamline the present dispute resolution process for association members and to make this process less costly. The member for Clayfield suggested that this issue could be easily addressed by shifting jurisdiction for hearing disputes from the Supreme Court to the Magistrates Court. The issues in relation to the present dispute resolution process are important and have a significant impact for associations and their members. As such, solutions to these issues have not been rushed through in this first stage of the review of the act. To illustrate, transferring jurisdiction for disputes to the Magistrates Court might make the process simpler and less costly. However, this court does not have power to make the full range of orders which proper resolution of disputes may require and which are presently capable of being made by the Supreme Court. In effect, the solution suggested by the member would have a short-term benefit for associations and would operate to their detriment in the long term.

The member also criticised the bill for not prescribing a longer tenure for members of an association's management committee such as the president or treasurer. In response I would say that it is simply up to the management committee to indicate longer terms for these positions.

The member for Clayfield argued that, despite the positive changes in the bill in relaxing reporting and insurance requirements for many associations, such associations could not take advantage of these changes unless their rules which would presently be drafted in accordance with the current law were changed to reflect the bill. New section 1B of the bill has been included to specifically address this issue. It provides that, if there is inconsistency between an association's rules and the changes in the bill, the bill takes precedence. In other words, where an association's rules presently reflect the existing mandatory requirements, if those mandatory requirements will no longer apply to the association as a result of the bill, then those rules are automatically taken to reflect the changed law.

The member also notes that there are better measures of the effectiveness of an association than how it performs financially, and the bill's relaxation of reporting requirements for level 2 and 3 associations does not necessarily reflect this. The introduction of the new tiered reporting requirements is not intended to reflect which associations function more effectively than others. Rather, the three new levels are intended to assign realistic and cost-effective reporting requirements to different associations based purely on the degree of financial accountability applicable to each.

The member for Clayfield has noted that the new definitions in the bill for 'current assets' and 'total revenue' are different to the accounting standards for non-profit organisations that have been devised by QUT and that this will lead to confusion among associations as to which definitions they should apply in preparing their financial statements.

The difference between these definitions relates to the extent to which total revenue and current assets for a financial year should include revenue or assets likely to be received or acquired after the end of that financial year. However, this difference will not create any practical difficulties for associations. Associations must still comply with the usual accounting standards, such as those devised by QUT, when preparing their financial records. The new definitions in the bill are only relevant to deciding what reporting level particular associations would fit into.

Some of the issues raised by the member have been lifted from a discussion paper on the bill prepared by Professor Myles McGregor-Lowndes of the Queensland University of Technology. Other members have also quoted extensively from this discussion paper. The Office of Fair Trading received this discussion paper in February this year and fully considered the issues raised in it to determine if any changes were needed to the bill. In fact, Professor McGregor-Lowndes has also been actively involved in

all stages of the review of the act and development of the bill. Several of his comments and observations have been adopted by the Office of Fair Trading. In fact, I met with Professor McGregor-Lowndes. I commend him for his passion when it comes to incorporated associations. I thank him for his discussion paper and his significant contribution to this bill.

I now refer to the member for Gladstone, who raised a concern about the difficulty some associations may face in determining which of the three new financial reporting levels associations fall into. In particular, the member asked whether, for level 3 associations, limits apply to include only associations with assets under \$20,000 and income under \$20,000. The question she asked was: does this mean that it refers to a total of \$40,000? In response to the member for Gladstone, I confirm that an association could have up to \$40,000 in assets and income provided neither the assets nor the income, taken individually, amount to more than \$20,000. For example, if an association has \$25,000 in assets, it would be a level 2 association even if it has very little income. Similarly, an association is a category 1 association if its assets or its income are greater than \$100,000.

The member for Gympie sought clarification of the definition of 'current assets'. He wanted to know why we have adopted the definition we have adopted. The definition contained in this bill is a simpler and clearer definition that is tailored to the needs and circumstances of the types of smaller community based organisations that the act applies to. The definition provides a clearer picture of what is required.

The member for Tablelands commented on the difference between owning and leasing land and renting it. Associations that simply rent a hall from time to time have what is called a licence as opposed to leasing land. Therefore, they do not have exclusive possession of the land, nor do they own it. On that basis, they do not have to have insurance under the land ownership exemption in this bill.

There are many people I would like to thank who have worked very hard in getting the bill to this stage. From my department I thank Mark Zgrajewski and Marie-Claire Poole. I have recognised the good work of Professor Myles McGregor-Lowndes, but I also acknowledge Penny Wilson from Clubs Queensland for her contribution. From my own office I thank Cameron Crowther, Michael Caldwell and David Smith. I give a particular thankyou to Cameron for his outstanding dedication to this bill.

In conclusion, I would like to say that, like other honourable members, I am also a local member, the member for Albert. There is an outstanding group of incorporated associations in my electorate. In particular, the residents associations of Jacobs Well, Albert and Ormeau do an excellent job in representing the interests of their communities.

I would like to commend all volunteers who belong to an association, especially the young people who are taking over from this generation in furthering the interests of associations. At this stage I would like to recognise one young lady who has been awarded the 2006 Queensland Young Achiever of the Year award. This lady is Jess Wellard. She is an amazing young woman who is president of a volunteer refugee tutoring and community support association. This association, through Jess's own leadership, has more than 500 tutors who work in inner Brisbane, Logan and the northern Gold Coast supporting refugees by helping them learn English and helping them settle in Queensland. She does an absolutely amazing job. I would like to commend the 500 volunteers for the good work they do in welcoming families from the Sudan, Congo, Afghanistan, Iraq and Iran to Queensland to ensure that they become Australian citizens.

With those few words, I would like to commend the bill to the House. Just before I do that, I table an erratum to the explanatory notes for the Associations Incorporation and Other Legislation Amendment Bill 2006.

Tabled paper: Erratum to the explanatory notes to the Associations Incorporation and Other Legislation Amendment Bill.