



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Tuesday, 4 August 2009

ELECTRICAL SAFETY AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (12.46 pm): I move—

That the bill be now read a second time.

The Electrical Safety and Other Legislation Amendment Bill 2009 will reduce electrical safety risks for Queenslanders. It will rectify a situation where Queensland is the only jurisdiction within Australia and New Zealand without the power to recall unsafe electrical equipment. This situation potentially places the electrical safety of Queenslanders at risk, which impacts on the government's Q2 ambitions of supporting safe and caring communities.

Since the commencement of the Electrical Safety Act in October 2002, it has been understood by the Electrical Safety Office and industry generally that under section 206 of the act there was sufficient authority to mandate a recall of unsafe electrical equipment by the issue of an electrical safety notification. However, this law was recently tested in the Industrial Court of Queensland. The court held that section 206 of the act relating to an electrical safety notification did not extend to requiring a recall and other related action to be conducted.

The decision of the Industrial Court highlights the fact that Queensland possesses neither fair trading recall powers nor electrical safety recall powers to mandate a recall of unsafe electrical products in the public interest. Currently, the only way that Queensland can seek a mandatory recall of unsafe electrical equipment is through a formal request to the Australian Competition and Consumer Commission to invoke its powers under the Trade Practices Act 1974.

This bill introduces a mandatory recall power for electrical products. The bill will reduce electrical safety risks for Queenslanders by ensuring the government can act when it believes safety is an issue or has the potential to be a risk to life or property.

The bill enables the minister of the day to make a recall order to compel designers, manufacturers or importers to recall and make safe electrical equipment. Such action would be taken if it is believed that the electrical equipment is or will become an electrical safety risk.

Compliance with a recall order becomes an additional obligation under the Electrical Safety Act. This is consistent with the existing obligations of designers, manufacturers and importers under the act, which is to ensure that electrical equipment that they design, manufacture or import is electrically safe.

A supplier of electrical equipment, subject of a recall, also has an important role to play. As part of a recall order, a supplier, including distributors and retailers, will be required, when requested, to provide 'reasonable help' to the 'responsible person' undertaking the recall. 'Reasonable help' may include ceasing the supply of the electrical equipment, identifying or assisting in contacting persons supplied with the electrical equipment and providing information regarding the number of items in stock, sold or returned by customers.

Failure to comply with the requirements of a recall order by the 'responsible person' attracts a maximum penalty of 500 penalty units or six months imprisonment or, in the case of multiple deaths, a maximum penalty of 2,000 penalty units or two years imprisonment may apply. Failure to provide 'reasonable help' by a supplier attracts a maximum penalty of 50 penalty units.

There are approximately 35 electrical product recalls conducted voluntarily by responsible designers, manufacturers and importers each year. I am confident that the majority of designers, manufacturers and importers will continue to do the right thing by conducting an effective voluntary recall should they have an unsafe product in the community. However, should this not be the case, the bill introduced today provides the legislative authority for the government to mandate the recall of unsafe or potentially unsafe electrical equipment where the responsible designer, manufacturer or importer fails to voluntarily remove the electrical risk. These new recall laws bring Queensland into line with other Australian and New Zealand jurisdictions and will reduce electrical safety risks for Queenslanders by ensuring the government can act appropriately when it believes electrical product safety is an issue.

As a separate matter, the recent restructure of Queensland Rail identified a small gap in the coverage of 'entity' obligations with respect to Airtrain Citylink Limited. Airtrain Citylink Limited is a privately owned and operated railway that owns 8.5 kilometres of elevated railway and two stations at Brisbane Airport. The operations of both QR Network Pty Ltd and Airtrain produce a range of similar electrical safety risks, albeit on vastly different scales.

The bill includes 'Airtrain Citylink Limited' in the meaning of 'electricity entity' under the Electrical Safety Act and also includes a consequential amendment to the Electrical Safety Regulation 2002. These changes ensure consistency of 'entity' obligations and will require Airtrain to have, and give effect to, a safety management system for the benefit of passengers and the wider community.

The bill amends the Industrial Relations Act and other consequential acts to enable the Queensland Industrial Relations Commission website to become the official publisher of decisions, awards, agreements, orders and other documents of the Industrial Court of Queensland, the commission itself and the Industrial Registrar. Access to these important industrial documents enables individuals to exercise and safeguard their rights in the workplace.

Currently, the decisions, awards, agreements, orders and other documents of the Industrial Court of Queensland, the commission and the Industrial Registrar are published as the Queensland Government Industrial Gazette by SDS Publications and printed by the government printer, Goprint. The bound industrial gazette is then distributed to 175 subscribers throughout Queensland. The subscribers to the industrial gazette are made up of legal firms, barristers, unions, employer organisations and libraries.

The bill includes amendments that will abolish the industrial gazette and make all decisions, agreements, awards, orders and other documents freely available on the Queensland Industrial Relations Commission website. This will speed up their public availability while reducing staff administrative procedures and the associated costs. Adoption of electronic service delivery should improve the availability, accessibility, efficiency and effectiveness of the QIRC and Industrial Court of Queensland services. Provision of these documents on the commission website will bring Queensland in line with other states.

The industrial gazette was used by a number of agencies and organisations to publish important industrial notices. Consequential amendments have been made to several acts and regulations to ensure that publication of these notices will continue in the Queensland Government Gazette. To give appropriate effect to this amendment, consequential and transitional provisions were necessary to a number of acts and regulations. These are also included in the bill.

The Contract Cleaning Industry (Portable Long Service Leave) Authority administers the Contract Cleaning Industry (Portable Long Service Leave) Scheme in Queensland pursuant to the provisions of the Contract Cleaning Industry (Portable Long Service Leave) Act 2005. The bill contains amendments that will clarify the ineligibility of trustees and working directors, which the scheme was never intended to cover. They also provide for some administrative changes to improve operating efficiency and compliance. The amendments provide membership for workers in the industry who perform cleaning work in outdoor areas but are currently excluded from membership of the scheme and also provide increased penalties for repeat offender employers.

Concerns have been raised about some recalcitrant employers who continuously fail to comply with their obligations under the legislation relating to lodgement of worker service returns and payment of the levy. Industry consultation has indicated that the current one penalty unit per month, \$100, for failure to comply with the legislation is insufficient to deter repeat offenders. An increase in penalty rates from one penalty unit per month to two penalty units per month for repeat offenders is included in the amendments.

To improve the efficiency of the scheme's operation, employers will no longer be required to report, and pay for, employees who are engaged to work on fewer than five days a quarter. This new provision is

intended to reduce the administrative burden on employers and the authority by allowing employers to disregard employees whose engagement period is no longer than five days.

As at 30 June 2009, the scheme had 754 liable employers registered and 49,889 registered workers with service for all or part of the past four years. The authority's board members have raised matters regarding some provisions of the act, in particular in relation to the definitions of 'cleaning work' and 'premises'. For example, the current definitions preclude membership of the scheme for workers performing cleaning work in open areas, including South Bank Parklands. The proposed amendment to the definitions will result in scheme coverage for workers performing cleaning work in open spaces and parklands whilst still excluding gardening, lawn mowing and other work, which the legislation was never intended to cover. For the avoidance of doubt, in determining whether an individual is engaged to perform, or performs, cleaning work in the contract cleaning industry, the substantial nature of the work and the purpose of the engagement as a whole are to be considered, whether or not individual tasks may fall outside of cleaning work.

The bill will help improve the performance of the scheme, and also include the important provisions already mentioned earlier. Not least of these benefits is the new power to recall unsafe electrical equipment. The Bligh government remains committed to the rights of workers and of workplace and community health and safety. I commend the bill to the House.