Speech by

# Hon. Cameron Dick

## MEMBER FOR GREENSLOPES

Hansard Tuesday, 27 October 2009

# FAIR WORK (COMMONWEALTH POWERS) AND OTHER PROVISIONS BILL

### Second Reading

**Hon. CR DICK** (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (7.30 pm): I move—

That the bill be now read a second time.

The purpose of the bill before the House is to refer to the Commonwealth the state's industrial relations powers for the private sector. This bill also sets out the conditions under which Queensland makes this referral to ensure Queenslanders the best result under the national industrial relations system.

Clauses 5 and 6 of the Fair Work (Commonwealth Powers) and Other Provisions Bill 2009 allow the Commonwealth to legislate exclusively with respect to all employers in Queensland, with the exception of state and local government. The bill provides for the national system to cover all the private sector and some commercial elements of the public sector including government owned corporations. The Queensland system will continue to cover the 300,000 employees in the state Public Service and local government, including the Brisbane City Council and local government owned corporations.

The Queensland government has not taken this step lightly and not without extensive consultation with Queensland employers and unions. The current state industrial relations system, embodied in the Industrial Relations Act 1999, has fairly balanced the interests of employers and employees. However, a national system can achieve comparable results, and that is why Queensland has taken the step to refer state's power on this issue.

This bill is the result of significant negotiations with the federal government on a range of issues. The Queensland government has been clear that several conditions need be met to ensure the security of Queensland workers as part of the referral of power. Importantly, the referral of state power is cast in such terms as to prevent the Commonwealth from unilaterally changing the scope of the national system.

The bill includes provisions which limit the Commonwealth from making amendments to the national system laws which impact on Queensland's referred jurisdiction without the agreement of the Queensland government. The Queensland government wanted Queensland workers to continue to have access to decent wages and conditions, collective representation and recourse against unfair dismissal. The move to the Fair Work Act at a federal level has allowed Queensland to achieve this through a national industrial relations system being fairer, less prescriptive and less complex than Work Choices. In the words of the Australian Chamber of Commerce and Industry—

The level of complexity created by competing state and federal workplace relations systems is a decades-old problem which has been thrown into sharp relief by our contemporary market economy. Replication, overlap and confusion between state and federal workplace regulation has become increasingly unsustainable.

The bill comes at the end of a lengthy period of cooperation that nearly two years ago first saw industrial relations ministers from the states and the Commonwealth endorse broad principles under which states would continue to have an important ongoing role in the new national industrial relations system. A

high-level officers group was then charged with the task of drawing up an intergovernmental agreement to assist in the process.

In an important step towards a national workplace relations system for the private sector, state and territory ministers unanimously endorsed a set of workplace relations principles, now outlined in clause 4 of the bill, that guide the development of a stable, uniform national system. By endorsing these principles, ministers endorsed a modern, fair and flexible workplace relations system. They expressed their commitment to a strong safety net of minimum standards, collective bargaining at the workplace level, protection from unfair dismissal and fair and effective remedies through an independent umpire.

I am pleased to advise the House that these principles are enshrined in the Fair Work (Commonwealth Powers) and Other Provisions Bill 2009 and in the intergovernmental agreement which referring states have been asked to sign. I can announce that I will sign the intergovernmental agreement and advise the Commonwealth that Queensland will refer its powers to the Commonwealth. This will ensure that Queensland meets the deadline for the 1 January 2010 implementation of a national industrial relations system.

There were a number of very important issues that needed to be considered before Queensland gave agreement to the referral of power. Therefore, a number of conditions were sought on the referral, including—

- the Queensland government having power to apply to Fair Work Australia to end industrial action in government owned corporations in specified circumstances;
- preservation of Queensland's unique and beneficial conditions for apprentices and trainees until Fair Work Australia reviews national conditions in this area;
- protection of certain state entitlements of employees transferring to the national system, as outlined at clauses 30 to 44 of the bill;
- preservation of certain award wage rates arising from Queensland Industrial Relations Commission decisions affecting the community and disability services sector;
- a high degree of control and input by Queensland over changes to law and policy in the national system.

The Commonwealth government has worked with Queensland on these issues and these conditions have been met through cooperation between state and federal officers. These conditions will be embodied in further Commonwealth transitional legislation relating to the referral.

Other important amendments contained within part 4 of the bill provide for changes to the Trustee Companies Act 1968. Trustee companies are currently authorised to administer deceased estates under state and territory legislation. In Queensland, the Trustee Companies Act 1968 applies. The amendments in the bill implement the agreement of the March 2008 meeting of the Council of Australian Governments for the Commonwealth government to assume responsibility for the regulation of trustee companies by the end of 2009. In accordance with this COAG agreement, I present these amendments to the House so that Queensland can meet its obligations and ensure that a smooth transition to Commonwealth regulation occurs.

Commonwealth regulation of trustee companies is anticipated to have the advantages of providing modern, efficient and effective supervision of trustee companies; removing unnecessary regulatory burdens associated with the duplicate licensing and reporting requirements across jurisdictions; freeing up market entry mechanisms and promoting greater competition; and providing for better information and access to a more cost-effective and timely alternative dispute resolution mechanism.

Accordingly, the amendments to the Trustee Companies Act 1968 in this bill remove the state approval mechanism for trustee companies and recognise licensed trustee companies within the meaning of section 601RAA of the Corporations Act 2001 (Cwlth); omit sections that will be unnecessary or inconsistent when Commonwealth regulation takes effect; facilitate the transfer of a trustee company's business to another licensed trustee company when its licence is cancelled; and provide for the making of regulations of a transitional nature to facilitate the transition to national regulation.

Beyond the amendments to the industrial relations arrangements in Queensland, the bill at parts 6 and 7 also provides an authorisation under the Trans-Tasman Mutual Recognition (Queensland) Act 2003 for the Governor to make a gazette notice endorsing the regulations proposed under the Commonwealth Trans-Tasman Mutual Recognition Act 2003. The bill at clauses 110 and 111 will also amend the Mutual Recognition (Queensland) Act 1992 to allow the Governor to approve by proclamation the terms of amendments to the Commonwealth Mutual Recognition Act 1992.

Section 9B prohibits the sale of prescribed drug paraphernalia, such as bongs and ice pipes, in South Australia. The granting of a permanent exemption under these Commonwealth acts requires the endorsement of all jurisdictions participating in the mutual recognition schemes. This bill enables Queensland to endorse the Commonwealth proposal.

Finally, the bill also includes a further unrelated amendment to the Adoption Act 2009. The amendment makes transitional arrangements for interim adoption orders that were made under the Adoption of Children Act 1964 and treats them as interim orders made under the Adoption Act 2009.

As I have already outlined, the Rudd Labor government has been very cooperative in its dealings with Queensland and the other states and territories on the introduction of a national industrial relations system. The resulting system sets aside the Work Choices approach to industrial relations and restores the balance of power to best look after the interests of both employers and employees. There is no doubt that the referral of Queensland's private sector industrial relations system to the federal jurisdiction will result in some changes to the work undertaken by industrial inspectors in Queensland. However, we are committed to ensuring a smooth transition to this new system and to making certain that employment security is protected. This bill today is a giant step forward in establishing a cooperative system that respects state rights, but also creates an overarching national industrial relations system which is in the best interests of business and workers. I commend the bill to the House.