



Speech by

## Lawrence Springborg

MEMBER FOR SOUTHERN DOWNS

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### ELECTRICAL SAFETY AND OTHER LEGISLATION AMENDMENT BILL

**Mr SPRINGBORG** (Southern Downs—LNP) (Deputy Leader of the Opposition) (5.14 pm): In rising to contribute to the debate on the Electrical Safety and Other Legislation Amendment Bill 2009, I can say that the opposition will be supporting this bill. The objectives of this bill are considered and justified. The removal of unsafe electrical product from use is in the best interests of suppliers and customers. In Queensland between 1998-99 and 2007-08 there were 59 electrical fatalities, which is an average of 5.9 per year. The consequences of not being able to recall unsafe electrical products can be life threatening to end users. Until now, Queensland was the only state in Australia and New Zealand not to have a mandatory recall power. The amendments before the House today are about correcting that gap and bringing Queensland into line with every other state and territory.

The Electrical Safety Act establishes a legislative framework seeking to prevent persons from being killed or injured, and property from being destroyed or damaged, by electricity. Among other measures implemented to achieve this aim, the Electrical Safety Act imposes obligations on persons who may affect the electrical safety of others by their acts or omissions. Persons covered by the act include designers, manufacturers, importers and suppliers of electrical equipment.

As a consequence of a Queensland Industrial Court decision in 2008 in *Chief Kitchenware Pty Ltd v Chief Executive of the Electrical Safety Board (Queensland)*, the deficiency in the current framework was highlighted. President Hall noted that the requirements of an electrical safety notification, or ESN, under section 206 of the Electrical Safety Act were directed at the 'use or supply' of electrical equipment. President Hall said that a supply is not restricted to the first supply by a manufacturer or importer to, for example, a wholesaler or retailer and could extend to requirements about supply while the electrical equipment is in the hands of a retailer awaiting ultimate supply to a customer. However, he said that, once the electrical equipment has reached the ultimate consumer and has been installed in the bathroom ceiling, any scope to impose a requirement about supply has been extinguished.

In *Chief Kitchenware Pty Ltd v Chief Executive of the Electrical Safety Board (Queensland)*, the president also said that even at that stage—that is, after installation—a requirement might properly be imposed on a designer, manufacturer or supplier about 'use'—for example, to provide information about how to use the fan, light or heater. Here, however, the ESN issued in reliance upon section 206 was about recall, repair and replacement, which President Hall said were—

... matters which are discrete from "use"—

that is, of the fan, light or heaters—

and, indeed, so discrete from "use" that any power incidental to the power to impose requirements about use may not legitimately be invoked to reach those matters.

Therefore, an ESN issued under section 206 of the Electrical Safety Act directed at, for example, a manufacturer to recall electrical equipment which has been installed in the home of the ultimate consumer was not about its supply or about its use. The outcome of this matter was that the president set aside the ESN issued by the acting chief executive of the Electrical Safety Board.

The bill allows that if a minister considers that electrical equipment is placing or will place persons or property in electrical risk the minister may make an order, that is, a recall order, that is directed to a stated designer, manufacturer, importer or supplier—that is, the responsible person—and require that the stated electrical equipment or type of electrical equipment, such as a model range of a certain brand, be recalled from use. The recall order can be made whether or not the responsible person has already undertaken a recall of the electrical equipment or the electrical equipment has been installed at a place.

The main provisions of the bill regarding electrical safety recall, as outlined, include: before making the recall order the minister must advise the responsible person by written notice that the minister intends to make the order and the reason for doing so, and give the responsible person a copy of the proposed recall order. The minister must also call on the responsible person to show cause why the minister should not make the proposed order. Then, if the responsible person wishes to show cause why the recall order should not be made the responsible person must make written submissions within seven days of receiving the notice and copy of the proposed order to the minister, and the minister must consider any written submissions made by the responsible person before making the recall order. If the minister does decide to make the recall order after considering the responsible person's submission, the order must be in writing and given to the responsible person. Information sufficient to alert the public about the electrical risk identified in the order must be published in the gazette and in a newspaper circulating generally in the state.

The bill outlines that the recall order will have to state the reasons for the recall of the electrical equipment for use and what the responsible person must do to recall the electrical equipment from use including but not limited to the actions listed. Those things include the way in which and the period for which the responsible person must inform other persons about the electrical risks—for example, the recalling, the type of and how often advertising of the recall must occur; the information that must be provided to other persons about the risk and what can be done to reduce it; the action the responsible person must take to eliminate the risk such as to repair or replace the electrical equipment; and the information that must be given to the chief executive about the progress of the recall. The recall order will remain in force until the end of two years after it is made unless sooner revoked.

If the responsible person produces a copy of the recall order to a supplier of the electrical equipment in question and asks the supplier for assistance in relation to the order, the supplier must provide the responsible person with reasonable help. Examples of reasonable help, such as ceasing the supply of the recalled equipment and/or putting up a sign about the recall at the supplier's place of business, are outlined. The maximum penalty for not providing reasonable help is to be \$5,000 for an individual or \$25,000 for a corporation.

As detailed in the explanatory notes, another part of the bill deals with the Contract Cleaning Industry (Portable Long Service Leave) Act. This scheme was established in 2005. QLeave administers the portable long service leave scheme. These amendments clarify the definition of who is covered by the act. These amendments are designed to improve the fairness and equity of the contract cleaning industry portable long service leave scheme—otherwise known as the scheme—for workers and employers in the industry through alterations to the eligibility provisions and through improvements to the efficiency of the administrative process. It might be helpful if the responsible minister could outline in summing up how many persons he believes could be covered by this provision and some examples of why this change in legislation is necessary to clarify the eligibility and the coverage of those people involved in the contract cleaning industry.

As explained in the explanatory notes, amendments contained in this bill will 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 Queensland Industrial Relations Commission and the Industrial Registrar. The proposal will result in the abolition of the *Queensland Government Industrial Gazette*, which is presently the official publisher for these and other documents. On that matter, I sought advice and assurances from the minister's officers that there could be no reasonable expectation that people are going to be disadvantaged in any way whatsoever from this particular amendment. When we move to a new form of communication, whether it be electronic or some other form of communication, those people who have been traditionally receiving that form of communication, in written form in this particular case through the industrial gazette, will need to be able to readily, easily and cost-effectively access that information.

An example of that would be if we ever decided to do away with the printed copy of *Hansard* that some people receive in the community. There are people out there who do not have access to a computer. We know that is the case in some circumstances, albeit it is a dwindling number of circumstances. But we cannot expect everyone to have access to electronic forms of communication. I was assured that people who would normally receive copies of the *Queensland Government Industrial Gazette*—the orders, decisions, awards, agreements et cetera and other documents of the Industrial Court of Queensland that are outlined in it—are generally people who are vitally interested in this area, particular employer organisations such as Commerce Queensland and industrial unions of employees—that is, our trade union

movement—who would normally have access to that information electronically. I also understand that there are fewer than 200 copies of this particular gazette distributed. Based on the assurances provided to me by the minister's officers, I am comforted by the fact that this should not disadvantage anyone and may make it available to people in a more timely way.

Returning to the issue of recall notices for unsafe electrical equipment, I think a lot of people would think it absolutely silly if you had the power to recall something that was sitting in a shop but not if the same piece of dangerous equipment had been installed in someone's home and it was identified as contributing towards a situation that caused loss of life, injury to a person or damage to property. We see that the minister needs the power to recall that dangerous equipment. Therefore, I think it is very sensible that this particular recall provision is put in place, to ensure that electrical equipment consumers throughout Queensland know full well that they can be protected from faulty equipment not only by recall in the shop but, more particularly, once it has been installed in their own home. Therefore, the LNP has no reservation in supporting the bill before the parliament. We believe there are reasonable enhancements and additions to a community's safety that come from the provisions contained in this legislation.