



Speech by
Grace Grace

MEMBER FOR BRISBANE CENTRAL

Hansard Wednesday, 6 October 2010

JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Ms GRACE (Brisbane Central—ALP) (2.40 pm): I rise to make a contribution to the debate on the Justice and Other Legislation Amendment Bill 2010. The bill makes mostly minor technical amendments to 33 pieces of legislation administered by the Attorney-General, which I think is a salutary reminder of the vast range of legislation for which he is responsible. In addition, there are amendments to a number of acts administered by other ministers, including the Payroll Tax Act 1971, the Family Responsibilities Commission Act 2008, the Disability Services Act 2006 and the Transport Operations (Passenger Transport) Act 1994. As I have already mentioned, most of the amendments are of a minor technical nature and they are eminently sensible amendments. Therefore, I will address the issues that are of some substance.

The bill makes a number of amendments—and I will stick to an area that I know fairly well—to the Industrial Relations Act 1999, particularly in relation to surrogacy in accordance with the excellent piece of legislation that this side of the House passed earlier this year and that, I might add, was opposed by those opposite. The amendment allows a person who becomes the primary carer of a child under an altruistic surrogacy agreement to apply for parental leave. The leave entitlements are modelled on the existing arrangements for parental leave for those who adopt children or have children naturally. I welcome the amendment to the bill, which enables people who become parents because of Labor's progressive surrogacy laws to avail themselves of the parental leave entitlements that are encapsulated under the existing IR laws.

Other amendments to the act allow for greater flexibility for members of the Industrial Relations Commission to work part time and the Workplace Rights Ombudsman can also work part time as both a commissioner and the ombudsman if the minister and the president of the QIRC approve it. There are safeguards in the legislation to deal with potential conflicts of interest. I am confident that those safeguards will invariably make sure that those conflicts are minimised. I note that the member for Glass House recently raised concerns about the Public Service. He referred those concerns to the Scrutiny of Legislation Committee, which asked for clarification in this area and rightly so. In my experience, these are independently appointed commissioners and ombudsmen. They are both independent officers performing a judicial service and I think the conflicts are minimised. I have had intimate experience in dealing with Commissioner Don Brown, who is an excellent ombudsman, and other commissioners. I know they will be able to carry out those functions in the professional manner that they have exercised to date.

The bill makes provision for enforcement and compliance arrangements in relation to a mandatory code of practice for clothing outworkers. I was involved in the campaign to obtain this code for outworkers. This area was completely unregulated and some very bad practices occurred. I fully support this code of practice. A code can be approved by the Governor in Council. The amendments allow the Industrial Magistrates Court to deal with breaches of the code and also allow authorised industrial officers to inspect the records required to be kept under the code. That makes eminent sense. As I said, this area was largely unregulated. The majority of people working in the outworkers area are women, and many are elderly women. It is fantastic to see that we are enacting powers so that this area can become more regulated than it has been in the past.

The bill amends a number of pieces of legislation allowing the responsible minister to approve leave without requiring the approval of the Governor in Council. Once again, that is an eminently sensible step in the right direction. This includes leave for the president of the QIRC and the Workplace Rights Ombudsman. Long leave for the Chief Judge and the Chief Magistrate will now be dealt with by the Chief Justice or the Chief Judge, rather than the Governor in Council. It is more important for those decisions to be made by the heads of the jurisdiction, rather than the Governor in Council. Once again, it is a sensible amendment. It will certainly assist in the day-to-day operations of those particular jurisdictions. The legislation will enable the minister, rather than the Governor in Council, to appoint associates to the QIRC. There are many of them and they do an excellent job. Once again, that is an eminently sensible step in the right direction.

One of the more significant amendments contained in the bill is the provision of a compulsory retirement age of 70 for magistrates. Previously, the compulsory retirement age was 65, although acting magistrates could be appointed beyond that age. That anomaly arose because magistrates were previously public servants who, at that time, had a retirement age of 65. It is interesting to hear the arguments from members on the other side of the House, particularly the member for Mudgeeraba. Every single day in this House it becomes clearer that those opposite have not learnt the lessons of the separation of powers. They have no idea of the importance of the judiciary obtaining its independence from tenure, and thus being able to make decisions fearless of losing their jobs or being sacked. Once they understand that, they will understand the separation of powers. Any grade seven student would know about the separation of powers, but unfortunately those opposite, including the member for Mudgeeraba, have absolutely no idea. In recognition of the increasing professionalism of the magistrates bench, with more and more magistrates being appointed from the practising legal profession rather than public servants, it is only appropriate that the retirement age be consistent with the District and Supreme Court benches.

The bill contains amendments to make the appointment of judicial registrars in the Magistrates Court a permanent fixture of the judicial system. When the registrars were appointed from 1 January 2008, initially it was for a two-year trial period, which was extended for a further 12 months by regulation. The judicial registrars have proven to be a cost-effective and efficient way of disposing of minor matters in the Magistrates Court, thus freeing up the magistrates to deal with more complex matters in what is becoming, as we all know, a very busy jurisdiction.

The bill contains amendments to the Family Responsibilities Commission Act 2008. That legislation was introduced in 2008 and the commissioner has suggested a number of amendments that will improve the efficiency of the commission and ensure its resources are focused on achieving outcomes for members of the communities of Aurukun, Hope Vale, which I recently visited, Mossman Gorge and Coen, particularly for the children in those areas. At present, the commission must be constituted by the commissioner and two locally appointed commissioners. Where the expected outcome of a conference is a referral to services, the commission will be able to be constituted by three local commissioners. This enables the referral to services to be made in a more timely manner, without having to wait until the commissioner is available to constitute the conference.

The bill reduces the number of days required for notice of a show cause hearing from 28 days to 14. That is a practical and eminently responsible change. It means that if a person has failed to present for services and are issued with a show cause notice, the hearing will take place more quickly to ensure that the person receives the necessary services in a more timely fashion. After all, that is what it is all about.

Another amendment contained in the bill will allow the commissioner to dismiss frivolous or vexatious applications without convening a full hearing of the commission. A person will be given the right to provide further information in support of their application. However, this amendment will ensure that the commission is able to dedicate its resources to providing services for the members of the communities it is designed to assist.

The very nature of the justice system means that it is only when working with the legislation that it becomes evident that small, minor amendments will improve efficiency and reduce the burden on business in complying with legislative requirements. The justice omnibus bills will always, by their very nature, contain amendments to a very broad range of legislation. However, it is through bills such as these that the finetuning can occur. I commend the hardworking officers of the government departments who have brought their considerable skills to bear in preparing this bill. I also congratulate the minister. They are very broad changes. As I said, some of them are minor and some of them are more substantial. I commend the bill to the House.