




Speech by

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Hansard Wednesday, 1 August 2012

PENALTIES AND SENTENCES AND OTHER LEGISLATION AMENDMENT BILL

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (4.06 pm), in reply: I thank honourable members for their contributions to the debate on the Penalties and Sentences and Other Legislation Amendment Bill 2012. The bill delivers on the government's pre-election commitments to increase the value of a penalty unit and introduce an offender levy. I will turn to more significant aspects of the bill with respect to the penalty unit increase. The bill increases the value of the penalty unit prescribed in the Penalties and Sentences Act 1992 from \$100 to \$110. Where legislation provides a monetary penalty for an offence, the monetary penalty is usually prescribed as a certain number of penalty units. For example, the current penalty infringement notice amount for exceeding the speed limit by up to 13 kilometres per hour is one-and-one-third penalty units. Currently, this would equate to a \$133 speeding fine. If the bill is passed by the House, the speeding fine will increase to \$146.

The amount of the penalty for an offence is set in legislation at a level considered necessary for deterrent or punishment for that particular offence. Increasing the value of the penalty unit by \$10 will ensure that monetary penalties maintain the deterrent or punishment effect. The increase in value of the penalty unit equates to the consumer price index increase since 2009, when the value of the penalty unit was last increased. Increasing the penalty unit value is one of the many important measures the Newman government is implementing to make sure that offences are dealt with in a tough but a fair way. The goal is to make Queensland the safest place to live.

The amendment aligns the Queensland penalty unit value with the penalty unit value of New South Wales while remaining below the value of the penalty unit in Victoria and Tasmania. It is estimated that this measure will raise additional revenue of \$22.6 million in a full financial year. As I advised the House at the time of the introduction, the penalty unit also applies to offences under local laws. However, the increase in the penalty unit value will not automatically impact on penalties under local laws because the penalty unit amount for local laws is stated in the Penalties and Sentences Regulation 2005. The Minister for Local Government will consult with all local governments to decide how the increase in the penalty unit value will apply to local government laws.

Let us turn to the offender levy. The offender levy, which is also an election commitment of the Newman government will apply to criminal justice matters where an offender is found guilty. The amount of the levy for the Supreme and District court matters will be \$300 and \$100 for Magistrates Court matters. Under this initiative, offenders will contribute to the justice system in recognition of the cost of their crimes to the Queensland community.

This offender levy will be automatically imposed at the point of sentencing and will not form part of the sentence. It will be payable per sentencing proceeding regardless of the number of offences dealt with by the court and whether or not a conviction is recorded. The levy will apply to offences prosecuted in the Supreme, District and Magistrates courts, including those involving non-state government prosecutors. It will not apply to resentences. The levy will be refunded if an offender is found not guilty on appeal. It will not apply to juveniles and it will not apply where the only offence committed involves a breach of bail.

There is provision for the offender levy to be paid on the day of the court hearing or registered with the State Penalties Enforcement Registry. By utilising the State Penalties Enforcement Registry the government is expecting to collect in excess of \$12 million per annum from offenders.

As I have indicated before, the bill also amends the Childrens Court Act 1992 and the Land Court Act 2000 to retrospectively validate rules made under those acts which had inadvertently expired. The amendments preserve the interests of parties who have submitted their disputes to those jurisdictions in the past and ensure the continuing operation of rules for the future.

The bill amends the Commissions of Inquiry Act 1950 to remove a Henry VIII provision. In its place will be a provision in the act that directly provides for a commissioner of an inquiry to compel the giving of information. The bill also inserts two new confidentiality clauses into the Commissions of Inquiry Act 1950 to moderate the release of sensitive information that has been obtained during the course of an inquiry.

The bill introduces new provisions to the Industrial Relations Act 1999 which will enable Queensland Health to systematically and efficiently recover any wages overpaid to its employees in the future. The bill will also assist Queensland Health to make improvements to its payroll and rostering processes so that these kinds of overpayments are minimised and the department and its employees can have confidence in future payments of wages and salaries.

There have been significant issues of overpayment and underpayment of health staff since the new Queensland Health payroll system commenced in March 2010. The majority of system errors have since been rectified. Underpayments have been and will continue to be investigated and rectified as a priority. Still, each fortnight there is a huge number of payroll forms submitted by staff, and these have to be entered into the system in the short time frame between the end of the staff rosters and their pay appearing in their account. Currently this is just three days. Errors and omissions can occur through no fault of the payroll officers involved, but new overpayments continue to be generated at an average rate of \$1.7 million each fortnight.

In May this government lifted the moratorium on the recovery of overpayments that was put in place by the previous government in July 2011. This moratorium created a difficult financial position for Queensland Health. Queensland Health must be able to investigate and recover any future overpayments promptly and efficiently. As it is, the Industrial Relations Act only allows an employer to automatically recover wages overpaid due to absence from work. The Industrial Relations Act also prohibits an employer from making deductions from wages unless the deduction is authorised by an award or agreement, by the Industrial Relations Act or by an employee's written consent. The amendments in the bill will permit Queensland Health to begin the automatic recovery of non-absence related overpayments systematically and efficiently. There is also an appropriate time frame of two weeks for the employee to raise and address any concerns they have with the overpayment and safeguards to ensure that no more than one-quarter is deducted from a person's subsequent pays at any one time.

We also need to make sure that the errors stop. To provide a more achievable time frame to process roster and pay adjustments prior to payday, Queensland Health will be making a directive to change its pay date from three days to 10 days in arrears. Queensland Health will support its employees by making available a once-only transitional loan of up to two weeks pay to help them to honour their financial commitments over the time of the transition to the new pay date. This loan is entered into voluntarily, and the employees will be encouraged to enter into a repayment scheme prior to the end of their employment with Health to minimise the impact of repaying the loan. The new section of the Industrial Relations Act empowers Queensland Health to automatically recover this loan at the time the employee ceases their employment as a last administrative resort.

During consideration in detail I will be moving amendments to ensure that a health employer's right to recover overpayments or repayment of the transition loan is not limited only to actions permitted by the Industrial Relations Act. Recovery action may be taken to recover any amounts owing, as is the case with the current provisions in section 396 relating to wages overpaid due to absence. These provisions are a fair and balanced approach to a sensitive but significant problem. Within the next 12 months my department will work with Queensland Health to review the operation of the new provisions to ensure they are achieving their objectives without detriment to employees.

I will now address some of the issues raised by members during the course of the debate. I start by thanking again all members of the House for their contributions. I also thank the committee chair, the member for Condamine, for his comments with respect to the bill we are debating today. I will now turn to a couple of matters raised by individual members.

The Leader of the Opposition again spoke about the consultation period. After 14 years of Labor in government in Queensland, a new government was elected on 24 March. The new government was sworn in a month later and parliament started sitting shortly after that. I think it fair and reasonable to expect that

government has a particular agenda. The government went to the election with a particular agenda and the people voted on it.

Mr Stevens: Decisively.

Mr BLEIJIE: I take that interjection. We would be living in a world of uncertainty if a government—

Mr Byrne interjected.

Mr BLEIJIE: I take the interjection from the member for Rockhampton, who said that this was not in our election commitments. The offender levy was announced during the election campaign. The penalty unit increase was announced during the election campaign. I can tell the member for Rockhampton that there is one difference between those on that side of the House and those on this side of the House, and that is, we went to the election with costed policies. We went to the election not with one page—although that was in 2009; in this election the Labor Party came with one page and one paragraph, but at least then they could get up and say that there were two A4 pages. We clearly indicated in the policy documentation that, to pay for good policies, the government wanted to introduce these two things: the offender levy and the penalty unit value increase. So I reject that criticism.

The opposition leader, other opposition members and the Independent member for Nicklin talked about consultation. If after being elected the government sent off every bill to a committee, under the standing orders, for six months, the government would be taking no action for six months. That is a crazy idea. Queenslanders elected this government decisively. They wanted action; they wanted positive change. If we were elected and then said, 'Here are all the bills. We'll leave it now for six months,' we would be putting the people of Queensland in an untenable position, because they wanted change and action. I do acknowledge the fact that, particularly in my portfolio, a few bills have been introduced and they have been subjected to a shortened time frame in terms of the committee process, but I think the committee has quite efficiently and effectively done the job that it was required to do; that is, prepare a good written report on the bills before the House.

Nothing is new. I was on the legal affairs committee before I became a minister. We conducted an inquiry into alcohol related violence and held hearings around the state. At the same time—

Mr Langbroek: Who was the deputy chair?

Mr BLEIJIE: Uh, you were. Such a memorable occasion! I acknowledge the former deputy chair of the committee. We were travelling the state with the alcohol related violence inquiry while at the same time inquiring into six or eight bills before the House, and this committee has handled it quite appropriately and I congratulate the committee through its chair. My warning is that this portfolio is a particularly legislatively burdensome portfolio and we have a big agenda, particularly in the next six months. If the Labor Party is whinging about having to work late at night to read bills, get over it, because there is going to be a lot more! We have a six-month agenda.

Mrs Scott interjected.

Mr BLEIJIE: I hear the member for Woodridge squawking over there. I have seen more of the member for Woodridge in the last 100 days in this parliament than I did during the last three years, because I think she is a shadow minister at the moment and I guess our large legislative agenda is making her work. We have heard the opposition leader already say that she has never worked this hard in her life as a shadow minister or as the opposition leader, although I do not know what she was doing when she was a minister of the Crown. This type of workload and capacity on this side of the chamber for the Liberal National Party is nothing new. Many of us come from good working environments or were business owners, so this is just all part of a day's work for us—getting on with the job and getting Queensland back on track.

The Leader of the Opposition mentioned SPER. I have had a lot to say about SPER over the years. I have been quite critical of SPER over the years, but there was an interjection from the Leader of the Opposition when I was talking about SPER during the second reading debate when she asked why it is in Treasury. Again, we had a clear election commitment in the costing policy documentation, which was many pages, of how we were going to pay for it and it actually acknowledged that SPER was in a terrible situation because it had over \$700 million in outstanding fines, not all related to the Justice portfolio. So it is quite appropriate that Treasury deal with that and collect that, because if there is one organisation around Australia in any government that gets their money it is the tax man. The Office of State Revenue is best placed to go after the money that is outstanding to start paying down the debt in SPER. So it is appropriate that Treasury look after it. Who let SPER get up to \$740 million in outstanding fines?

Mr Dickson: Labor!

Mr BLEIJIE: The Labor Party. Day in and day out we came in here and raised the issue. The former Attorney, Paul Lucas, at the time denied there was a problem. Former Attorney Cameron Dick came into

this place a couple of years ago and said it is managing its debt pool sufficiently, and we have heard those words before. We heard about the Health payroll. They kept saying, 'It's stabilised.' As we have now heard, it is stabilised to the tune of over \$1 billion! That is why SPER is going to get under control under the Treasurer, and that is why the Office of State Revenue is best placed to deal with this. If offender levies get added to the SPER debt, they will be recovered by the Office of State Revenue.

The opposition leader supports the offender levy but could not bring herself to support it fully. She had to support it with a qualification—that is, it should not be \$300 but \$50. I note that the opposition leader will be moving an amendment to reduce the offender levy to \$50. We will not be accepting that. We had a clear election commitment, and that is what we are doing. Interestingly for members' enjoyment, I note that in the opposition leader's comments she could not bring herself to mention the Health payroll. I do not think the opposition leader even mentioned the provisions in the bill that relate to the overpayment of Health staff. It is quite extraordinary that the shadow Attorney-General would not talk about all aspects of the bill.

Mr Stevens: Why would that be?

Mr BLEIJIE: I take the interjection from the member for Mermaid Beach. Why would it be? Why could the opposition leader and shadow Attorney-General not bring herself to talk about the Health payroll in Queensland?

Mr Stevens: I can give you one—1.2 billion reasons!

Mr BLEIJIE: I will open it up to the floor. I think it has to do with the fact that over—

Mr Stevens: 1.2 billion!

Mr BLEIJIE: I put it this way to honourable members: the opposition leader has \$1.2 billion reasons not to talk about the Health payroll system in Queensland. That is why we did not hear about it.

The member for Condamine made a great contribution following the opposition leader. The member for Condamine raised issues of taxation purposes, and I think I clarified that sufficiently in my second reading speech. The member for Broadwater made a good comment with respect to the offender levy being applied to—wait for it—people found guilty. We hear from the Labor Party that it should be \$50 because these are the most vulnerable in society. Folks in the Labor Party, tell your constituents like we will tell our constituents: don't break the law and you won't be up for an offender levy. Do not break the law and you will not be charged. Do not break the law and you will not have a possible position of conviction. If you are not found guilty, you will not pay the offender levy. So the best encouragement the Labor Party can give its constituents is to follow the laws and the due processes in society. Do not break it. Do not get fined, charged and convicted and you will not have to pay the offender levy. It is the best advice I think I can give to the seven members opposite to give to their constituents.

The member for Ferny Grove raised some issues with respect to collaboration in terms of third parties and negotiation and consultation. I have dealt with that in that in an ideal world we would love all the time in the world to consult on these matters, but matters are before parliament and we have to get on with the job. I acknowledge the comments made by the member for Ipswich in terms of the Law Society. I should note that he was a former president of the Law Society and I did enjoy catching up with a couple of members from the House at Law Society House the other night. The Law Society was very nice to put on a welcome celebration to introduce its members to members of the profession who are now elected to parliament.

The member for Coomera made a good contribution. I had to go and do some research because he kept going on about the bionic man. I had to research who the bionic man was—the Six Million Dollar Man. It was before my time—the Six Million Dollar Man Steve Austin—but I am sufficiently satisfied with my knowledge of the bionic man now after the Google and Wikipedia research that I conducted last night.

Mr Dowling interjected.

Mr BLEIJIE: Indeed. The member for Coomera focused his contribution on the Health payroll issues, which of course have been well debated in this place. I make this point to the Labor Party: we would not have to be making these amendments to the IR Act in terms of the Health payroll had it paid the nurses, had it got a system under control, had it correctly paid the nurses and had someone taken responsibility. For honourable members who are new to the chamber, what in fact happened was that Paul Lucas was the health minister at the time.

Mr Symes: Where is he now?

Mr BLEIJIE: I acknowledge the better member for Lytton we have now. At the time Paul Lucas was the health minister, and he was shoved aside and he was sort of given the boot. Usually when we talk about accountability and being given the boot, you would be kicked out. He was promoted! He was promoted to three roles: State Development, basically doing the planning in Queensland; he was given the

portfolio of Attorney-General; and he was the minister for local government. He was the minister for everything! I have to say that he did not do too good a job in all of those portfolios.

Mr Stevens: Health was his high-water mark.

Mr BLEIJIE: Health was his high-water mark. That is the history of what the Labor Party does when it has such incompetent members and ministers: firstly, it does not accept responsibility; and, secondly, the leadership team of the Labor Party does not serve out punishments but promotions! As the old saying goes, everyone rises to their own level of incompetence, and that was certainly the case with the Labor Party and with the former minister.

The member for Redlands referred to the Minister for Local Government. I suspect that was in relation to the penalty units that he and I were negotiating in talks with councils. The member confirmed that he disagreed with the comments made by the opposition leader. I thank the member for Redlands for the support that he showed for the government in disagreeing with the opposition leader. The Minister for Local Government talked about crime in North Queensland. This morning we heard the Minister for Police and Community Safety, Jack Dempsey, talk about some of the actions that the government is taking in relation to crime in Queensland, particularly in North Queensland. We are getting on with the job of trying to sort out the issues in North Queensland. The member for Morayfield talked about revitalising front-line services. Of course, he is spot-on. Some of the additional money raised from the offender levy and the penalty unit increase will be used to revitalise front-line services.

Last night we also learned that the member for Bundamba, who is noticeably absent from the chamber—and we understand why—is above the courtesies of the House. She has to have a bit of training in the courtesies after all of these years. Mr Deputy Speaker, I refer to the courtesies owed to you in terms of bowing. I liked it that last night the member for Bundamba was given a history lesson of the importance of the respect that ought to be shown to the chair. My ears pricked when the member for Bundamba made a really interesting comment. She said, 'It is unfair to punish staff.' Of course, she was referring to trying to get some of the \$1.7 million a fortnight in overpayments. Where has the member for Bundamba been for the past two years when nurses were not getting paid correctly—when nurses were continually underpaid or not paid at all? Where was the member for Bundamba when we had minister after minister here for the past two years get up and say that the Health payroll system has stabilised, yet at the same time we all had members of our constituencies writing to us pleading with us because they could not afford to pay for food that week because they were not paid. The only people who owe any sort of apology to our good, hardworking nurses and allied health professionals are those of the Queensland Labor Party. They are the ones who should be apologising and I do not think I have heard any apology to that effect. The best the Leader of the Opposition could do was stand up on Labour Day and say to the unions, 'I apologise on behalf of the Labor Party for hurting the unions with asset sales,' but she could not bring herself to apologise to the good nurses and hardworking allied health professionals in Queensland for not paying them their appropriate wages.

It is no secret that we are left to clean up the mess, which we will do. But if you were to ask any incoming government whether this is something that they would want or ought to do, it certainly would not be on the agenda, but we have to do it, because we have to clean up the rot and the mess created by the Labor Party.

Mr Stevens: If we had the right documents to do it.

Mr BLEIJIE: I take the interjection from the honourable Leader of the House in terms of the documentation. We heard it prosecuted in this House yesterday adequately by the health minister and by the Premier today. The best thing that the Leader of the Opposition—the shadow Attorney-General—can do is to give that little indication, that little email back to the cabinet secretary. It is a small gesture. Give the little email back to the cabinet secretary and say, 'Authorise the health minister. Talk to people about what he sees in that peepshow,' so that we can protect the legal rights of Queensland. So I would again encourage the opposition leader to read that email and to think about the nurses and the \$1.7 million in overpayments that continue to happen on a fortnightly basis.

I will go back to the contribution to this debate by the member for Bundamba. I think it is shameful that, all of a sudden, she can find her voice. In fact, the other night I was on YouTube watching parts of *The Little Mermaid* with my daughters. Ursula was the bad witch. Those members who have children will know that Ursula took one thing away from the little mermaid. What was it?

Mr Latter: Her voice.

Mr BLEIJIE: Her voice was taken away. For two years Ursula took the voice of the member for Bundamba. The honourable Labor Party members in this place would not bring themselves to talk about the Health payroll issues in Queensland. Now, we have the member for Bundamba wanting to talk about it

all day. It is like the member for Bundamba has found her prince. She has kissed her prince and Ursula has given her her voice back. So all of this built-up anger over the past two years about the Health payroll has suddenly exploded and here we have the member for Bundamba trying to say that she is protecting her constituents and sticking up for the rights of the union members and also the rights of the allied health professionals and nurses. I say shame on the member for staying silent for so long.

The member for Toowoomba South talked about SPER. I have addressed that matter. We are giving SPER to the Treasurer to look after and deal with. The member for Gladstone made the point that the Labor Party created this mess in terms of the Health payroll. I could not agree more. The member for Nicklin again talked about consultation. He called me a sham, a disgrace. The member for Nicklin should know about majorities in this place, because he gave the Labor Party a majority years ago. He knows as well as anyone that a majority of one is all that counts. A one-seat majority is all that counts in this place.

Mr Wellington: And they didn't behave like this! They exercised restraint!

Mr DEPUTY SPEAKER (Dr Robinson): Order! The member for Nicklin will resume his seat. I warn the member for Nicklin under standing order 253A. Any further outbursts and he will be removed from the chamber.