




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

INDUSTRIAL RELATIONS (TRANSPARENCY AND ACCOUNTABILITY OF INDUSTRIAL ORGANISATIONS) AND OTHER ACTS AMENDMENT BILL

Introduction

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (7.40 pm): I present a bill for an act to amend the Industrial Relations Act 1999, the Public Service Act 2008 and the Workers' Compensation and Rehabilitation Act 2003 for particular purposes. I table the bill and the explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013 [\[2532\]](#).

Tabled paper: Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013, explanatory notes [\[2533\]](#).

The objective of the bill is to provide for amendments to the Industrial Relations Act 1999 to improve the accountability and transparency of industrial organisations registered in the state industrial relations system; to promote freedom of association; to align right-of-entry requirements with the Commonwealth Fair Work Act 2009; and to improve the arrangements for the recovery of overpaid wages. The bill also amends the Public Service Act 2008 and the Workers' Compensation and Rehabilitation Act 2003.

Contrary to what has been referenced in recent media articles, this bill does not ban public servants from having union logos or stickers on their desks. I want to make it clear that this government acts in the interests of the wider community to guard against corruption and the misuse of trust and position. We stand for accountability, and the bill I am introducing this evening is in the interest of accountability and transparency of industrial organisations and their elected officials. I acknowledge that there will be a variety of views about the bill and I encourage those who have something to say to use the committee process to air those particular views. This government will always be open to the views of the community and will consider any suggestions that will give Queenslanders better outcomes.

I turn to the accountability and transparency of industrial organisations registered in the state industrial relations system. Industrial organisations occupy a unique and privileged position in the industrial relations system. The officials of industrial organisations are elected by members of the organisations who deserve to have confidence in the stewardship and financial management of their organisation and its leadership. Concerns about the governance and financial accountability of industrial organisations have increasingly become a focus of community concern, the most notorious of these being the investigation into the Health Services Union, the HSU, which identified over 100 breaches of the organisation's own rules and federal laws. The investigation raised concerns about alleged financial mismanagement; improper use of funds; improper use of position to gain personal advantage; and failure to exercise powers, discharge duties in good faith and in the best interests of the organisation. After a three-year investigation the matter is finally before the courts. But the story does not end there.

Victoria Police are currently investigating allegations of corruption by the Australian Workers Union which hark back to the 1990s. It is alleged that the AWU set up a 'slush fund' using funds siphoned from construction companies. In Queensland questions have arisen about the financial management practices within the Queensland Retail Traders and Shopkeepers Association, QRTSA, over the sale of assets, use of funds and awarding of contracts to family members. The Crime and Misconduct Commission and the Queensland Police Service are investigating these matters, and proceedings have also commenced in the Queensland Industrial Relations Commission to overturn some of the decisions made by past management committee members.

In New South Wales it remains to be seen what the fallout will be for the Construction, Forestry, Mining and Energy Union, the CFMEU, from the Independent Commission Against Corruption, ICAC, probe into the granting of mining licences to entities. As part of its investigation, ICAC is trying to determine if a former CFMEU official benefited financially as a result of a close association with a former NSW Labor government minister who held great sway over the issuance of mining licences. While the outcomes of these matters are yet to be determined, the fact that these affairs stem back some years demonstrates the need for greater scrutiny and transparency so that allegations of corruption and fraud can be dealt with head-on and expediently.

These examples of maladministration demonstrate the scope of the problem and, unlike other governments, this government will not sit idly by while members' funds are squandered and dishonesty goes unpunished. The best disinfectant is sunlight. The sad fact is that reliance on self-regulation by industrial organisations has been woefully inadequate and that the standards of conduct of officials of industrial organisations have fallen well below those expected by our communities. This bill assures members of industrial organisations that this government is committed to protecting their rights and interests by applying these new laws to all industrial organisations—both unions and employer groups. Through greater accountability and transparency, elected officials of industrial organisations registered in Queensland will be required to meet the same standards of accountability and transparency demanded of elected public officials and local government officials in Queensland.

I now turn to the details of the bill. Industrial organisations will be required to make public disclosures by maintaining up-to-date and publicly available disclosure registers. Four registers will provide information on the following: firstly, the remuneration of the organisation's 10 highest paid officials and employees—the register of remuneration will be updated twice yearly; secondly, the material personal interests declarations of elected officials and their relatives—while the declarations of elected officials will be publicly available, those of the relatives of elected officials will be filed with the Industrial Registrar and will not be made publicly available; thirdly, all gifts and benefits over \$500 received and given by officials and employees; and, finally, ballots for expenditure on political objects of \$10,000 or greater. Expenditure on public advertising and related political activities as well as funding to a third party to campaign on behalf of the industrial organisation will require members to be balloted to approve expenditure greater than \$10,000. Balloting will occur through the Electoral Commission Queensland at the expense of the organisation. The bill requires the disclosures of the registers to be from 1 July 2012 and to be publicly available by 30 July 2013. Further, the bill requires industrial organisations to identify political affiliations in all political advertising material.

In addition to the existing obligations for audited financial reports to be filed annually with the Industrial Registrar, the bill requires industrial organisations to also file the following: a statement detailing all expenditure directed to political objects; and a statement detailing all procurement and contract related expenditures greater than \$5,000. The annual returns must be certified by a registered company auditor that the organisation complies with the following requirements: that the industrial organisation has developed and implemented policies to ensure good governance around credit card issuance and usage; gifts and benefits received and given; and policies to assist decision making around procurement, leasing and contracting arrangements. The annual returns filed with the Industrial Registrar will be made publicly available on the organisation's website. If the organisation does not have a website, arrangements will be made to publish on the QIRC website.

I am acutely aware of the burden red tape places upon business. This government has a proud record of achievement when it comes to removing unnecessary red tape. While the bill does impose additional red tape—reporting obligations—these are considered reasonable for ensuring transparency and accountability of industrial organisations. Employer associations that are corporations will not lose their exemption for meeting the audit and accounting obligations under the IR Act to ensure that there will be no double-up with the requirements of the corporations law. In keeping with good governance, the bill requires officers with financial duties to undertake governance and financial accountability training every two years.

The bill strengthens the complaints and investigation process. The bill provides that complaints to the Industrial Registrar will be directed to the director-general of the Department of Justice and Attorney-General, who may refer to the department's industrial inspectorate for investigation. In addition, the bill ensures the Industrial Registrar may share information with relevant law enforcement authorities if criminal behaviour is detected in an industrial organisation. The bill provides that the Attorney-General may also direct the director-general to investigate industrial organisations. If the organisation is found to be dysfunctional the director-general may appoint an interim administrator.

The bill provides a realistic deterrent against dishonesty or acting against the best interest of the organisations by making the penalty up to \$340,000 and/or five years imprisonment. This bill requires the best effort to be applied to meet disclosure requirements for interest and expenditure that has occurred during the financial year 2012-13. While there are penalties for failing to provide the disclosures, the bill takes into account what is reasonable to be supplied before any penalty would be considered.

In addition to improving industrial organisations' accountability, the bill also introduces a number of other changes to the Industrial Relations Act 1999. The first of these is aimed at supporting an employee's right to choose whether or not to join a union. As an employer, the Queensland government is obliged to operate in an efficient and effective manner. Under the current arrangements there are industrial instruments in place which require the government to help the union recruit members by actively encouraging membership and providing Queensland government resources for this purpose.

Freedom of association gives individuals the right to choose to join or not join a union. The Queensland government recognises this right and the bill will give effect to this right by making changes that ensure that provisions in industrial instruments or policies and procedures have no effect where they facilitate and encourage membership of trade unions. In particular, provisions in industrial instruments which require an employer to make available its facilities including payroll deduction facilities for membership fees, resources or premises and provisions which require an employer to provide to a union information about employees or access to its employees will be deemed to have no effect.

The bill also introduces more stringent procedural requirements on unions in relation to exercising right of entry to an employer's premise. The bill amends existing right-of-entry provisions to ensure that they are consistent with requirements contained in the Fair Work Act 2009—the Commonwealth act. This includes additional requirements on unions around provision of entry notices, 24 hours notice in writing prior to entry as well as content of entry notices.

The bill will also allow better facilitation for Queensland Health's recovery of overpaid monies from employees, including on termination of employment. These changes will ensure a sound legislative foundation for the planned introduction of automated repayments in 2013 and will also enable the recovery of overpayments upon termination of employment. The changes are aimed at providing clarity regarding the maximum amount that can be deducted from an employee's pay for recovery of an overpayment and supports recovery of outstanding overpayment amounts from an employee's termination pay. This will provide greater certainty for both the employer and the employee and will ensure that overpayments will be able to be recovered from termination pay.

The bill removes the requirement for an employee's consent for deductions from wages to always be in writing. Where the employee's consent for a deduction is not written, before making the deduction the employer must give the employee written acknowledgement of the consent. The bill also expands the meaning of 'contracting' to clarify that a contracting provision includes the terms and conditions upon which contracting out, or in, of services is to occur.

The bill also amends the Public Service Act 2008 to appoint the vice-president of the QIRC as the appeals officer with responsibility for issuing practice directions to guide appeals processes under the legislation. This change will facilitate the expeditious handling of matters and consistency in decision making in relation to public sector appeals within the QIRC.

In addition to changes to the Industrial Relations Act 1999, the bill amends the Workers' Compensation and Rehabilitation Act 2003 to clarify the definition of 'worker' to assist employers identify who must be included in their workers compensation policy. The bill amends the Workers' Compensation and Rehabilitation Act 2003 to align with the PAYG—pay as you go—test applied under Australian Tax Office laws to determine whether a person is a worker for workers compensation purposes.

Confusion with the current definition of 'worker' represents one of the most common areas of complaint made to government members in respect of the operation of the workers compensation scheme. In fact, this issue has been raised in no less than 17 individual public submissions to the parliamentary Finance and Administration Committee inquiry. While the committee is currently undertaking a review of the scheme, it is not due to report its findings to the parliament until 23 May 2013. This time frame does not enable the government to consider its response to the recommendations in time to impact premium renewals for the 2013-14 period, thereby preventing any reduction in affected employers' premiums being implemented before the 2014-15 financial year. Implementation of the change from an interim date would require employers to calculate and lodge two separate wages declarations for the one financial year, increasing both cost and red tape. The government in responding to the legitimate concerns of business decided to act immediately on this issue.

Further, following the extension of the reporting date of the parliamentary committee inquiry from 28 February 2013 to 23 May 2013, the Chairman of WorkCover, Mr Glenn Ferguson, wrote to me to ask that the government urgently clarify this issue outside of the current review and in time for the commencement of the next premium period. For the benefit of all honourable members, I have written to the chair of the Finance and Administration Committee, the member for Coomera, to outline our position on this issue and the need for urgent legislative amendment that will clarify this issue for workers, employers and WorkCover.

Examples of persons who will no longer be covered for workers compensation as a result of the change to the definition are those who supply and operate their own plant, such as earthmoving equipment or trucks as part of their contract. Further, individuals providing substantial materials, such as carpenters providing the timber or plasterers providing the necessary plasterboard to complete the work, will no longer be defined as 'workers'. Many of these individuals currently already have 24-hour sickness and accident insurance, and the change will provide clarity for them and reduce costs to the employers with whom they contract.

In conclusion, may I reiterate the comments I made earlier in this House that this bill is aimed at providing accountability, integrity and transparency for all industrial organisations in Queensland. As I also said, the bill amends the right-of-entry provisions whereby we are copping, essentially, federal Labor Party law, which requires 24 hours notice of union accessibility to the employer's work site. Thirdly and most importantly, particularly for the Minister for Health, it deems not effective the encouragement clauses in relevant instruments.

In conclusion, the Queensland government and its great Public Service are about delivering a front-line first-class service to the people of Queensland. Governments are not elected to build a union membership base and unions should not use public servants to build their own membership base. On that note, I commend the bill to the House.

First Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (7.59 pm): I move—

That the bill be now read a first time.

Mr PITT: I rise to a point of order. We have heard the Attorney-General talk about the fact that this is subject to the review of the Finance and Administration Committee regarding the definition of 'worker'. The concern is that the Attorney-General is pre-empting the decision of that committee by putting this legislation through the House, albeit that legislation might come back to the Finance and Administration Committee. Ultimately, he is showing nothing but contempt for the Finance and Administration Committee's findings. He asked for the review and now he is going ahead of it. I ask for your guidance.

Mr DEPUTY SPEAKER (Mr Krause): Order! Manager of Opposition Business, that is not a valid point of order. The question is—

That the bill be now read a first time.

Division: Question put—That the bill be now read a first time.

AYES, 61—Barton, Bates, Bennett, Berry, Bleijie, Boothman, Cavallucci, Choat, Costigan, Cox, Crandon, Cunningham, Davies, C Davis, T Davis, Dempsey, Dickson, Dillaway, Dowling, Emerson, France, Frecklington, Grimwade, Gulley, Hart, Hathaway, Hobbs, Holswich, Johnson, Kaye, Kempton, Latter, Maddern, Malone, Mander, McArdle, McVeigh, Millard, Minnikin, Molhoek,

Newman, Nicholls, Ostapovitch, Powell, Pucci, Rickuss, Robinson, Ruthenberg, Seeney, Shorten, Shuttleworth, Smith, Springborg, Stuckey, Trout, Walker, Watts, Woodforth, Young. Tellers: Menkens, Sorensen

NOES, 10—Byrne, Douglas, Judge, Knuth, Mulherin, Palaszczuk, Pitt, Trad. Tellers: Miller, Scott

Resolved in the affirmative.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Krause): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee.

Portfolio Committee, Reporting Date

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (8.14 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Legal Affairs and Community Safety Committee report to the House on the Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill by 30 May 2013.

Question put—That the motion be agreed to.

Motion agreed to.