




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 17 October 2013

INDUSTRIAL RELATIONS (FAIR WORK ACT HARMONISATION NO. 2) AND OTHER LEGISLATION AMENDMENT BILL

Introduction

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (12.02 pm): I present a bill for an act to amend the Industrial Relations Act 1999, the Hospital and Health Boards Act 2011, the Superannuation (State Public Sector) Act 1990, the Superannuation (State Public Sector) Regulation 2006 and the Trading (Allowable Hours) Act 1990, and to make minor and consequential amendments to the acts listed in schedule 1, 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 (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013 [\[3793\]](#).

Tabled paper: Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill 2013, explanatory notes [\[3794\]](#).

The purpose of the Industrial Relations (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill is to amend the Industrial Relations Act 1999 to create a reformed industrial relations framework for the Queensland jurisdiction.

The Industrial Relations Act 1999 is within my portfolio and, to the extent that it relates to public sector industrial relations, the portfolio of the Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs and Minister Assisting the Premier. The bill also includes amendments to the Health and Hospital Boards Act 2011, which falls within the portfolio of the health minister. The bill also includes amendments to the Superannuation (State Public Sector) Act 1990 and the Superannuation (State Public Sector) Regulation 2006.

The bill reforms the industrial relations framework for Queensland. The Queensland industrial relations jurisdiction consists almost entirely of the state and local government sectors. The bill responds to the recommendations of the Queensland Commission of Audit and the Blueprint for Better Healthcare in Queensland. In particular, recommendation 130 of the Commission of Audit notes the importance of updating the Industrial Relations Act 1999 to ensure that it is modern, flexible and relevant to the public sector environment.

Other recommendations of the Commission of Audit that are reflected in this bill include:

- that awards continue to provide the basis for public sector wages and conditions, however only matters not covered by legislation or Public Service directives should be included; and the number of awards that apply in the public sector should be significantly reduced; and
- that certified agreements only contain wages and conditions for specific groups of employees which are outside award conditions and that these are linked to improvements in productivity and performance.

The framework set out in the bill is considered essential for providing for a modern, flexible and responsive industrial relations framework, particularly with respect to the negotiation of employment agreements terms and conditions.

The new framework is comprised of five elements. The first is legislated minimum employment standards. A key feature of the reform is that it will introduce comprehensive legislated minimum employment standards to be known as the Queensland Employment Standards, QES. Employment standards are currently provided for under both the state and federal industrial relations legislation. Chapter 2 of the Industrial Relations Act 1999 provides for general minimum employment conditions in the Queensland jurisdiction. Federally, the Fair Work Act 2009 makes provision for the National Employment Standards, NES. These are non-negotiable minimum employment conditions for employers and employees in the national workplace relations system.

The QES, like the National Employment Standards in the Fair Work Act, will provide a safety net of non-negotiable minimum employment conditions for workers and consistency and certainty for employers operating in the Queensland industrial relations jurisdiction. The QES will underpin all employment arrangements including the new modern awards and agreements providing mandatory content for certain standards that cannot be altered in the bargaining process for a certified agreement.

The QES are based upon the existing state and federal standards. These are standards for annual leave, sick leave, family leave, long service leave and jury leave. The existing sick leave standard in the IR Act of eight days accrual each year has been increased to 10 days, in line with the national employment standard.

Other matters provided for under the QES include the adoption of a public holidays standard based on the NES, while retaining the definition of 'public holiday' in the IR Act; inclusion of a notice of termination and redundancy standard based on certain provisions from both the state and federal legislation; and the inclusion of standard dispute resolution, consultation and flexibility clauses for modern awards and certified agreements. The QES standards for dispute resolution, consultation and flexibility are not currently contained in general employment conditions in the IR Act.

It is proposed that the QES will apply to all employers and employees within the Queensland industrial relations jurisdiction from 1 December 2013, subject to transitional provisions. The provision of the QES is consistent with the intent of recommendation 128 of the Commission of Audit report which provides for the development of core employment conditions for all persons employed in the Queensland Public Service.

The second element in the IR framework is an award modernisation process. The Commission of Audit recommended that awards continue as the basis for public sector wages and conditions, on the basis that only matters not covered by legislation or Public Service directives be included in an award. The Commission of Audit also recommended that the number of awards that apply in the public sector be significantly reduced. There are currently 83 state and local government awards operating in the Queensland industrial relations system. These awards have, over many years, been amended to contain extensive and complex provisions relating to a broad range of matters.

The bill will introduce a process to modernise and rationalise the existing Queensland awards. The bill clearly states that the objects of award modernisation are for awards to be simple to understand and easy to apply; that they become a fair safety net of enforceable terms and conditions for the employment relationship between the employee and the employer; that they promote flexible modern workplace practices; and that there be certainty, stability and sustainability in the modern award system.

The bill proposes an awards modernisation process similar to what was used by the former Rudd Labor government in 2008-09 by the Fair Work Commission to modernise federal awards. As the responsible minister, I will provide the Queensland Industrial Relations Commission with a request to modernise an award or group of awards. The request will state a date by which the award modernisation process must be completed and that date must be within two years. It is proposed that the award modernisation process will commence from 1 December 2013, with a staged process identifying priority awards for modernisation during 2014. Like the Fair Work Act and the process undertaken by the former federal government, the bill also specifies matters that must and may be included in an award and those matters that may not be included in an award. Queensland modern awards will include required content, such as consultation and flexibility clauses, and permitted matters relating to the employment relationship and machinery clauses, such as coverage and the types of engagement. Modern awards will not contain non-allowable content such as matters relating to workload management and workforce planning.

The third element in the IR framework is the certified agreements. The scope to bargain for additional entitlements will be provided through the agreement-making process. The new IR framework will focus agreement making to be about matters linked directly to the employment relationship and improvements in productivity and performance in the workplace. This approach responds to the Commission of Audit recommendation that certified agreements only contain wages and matters for specific groups of employees which are linked directly to their employment relationship and, further, to improvements in productivity and performance which are not otherwise contained in the modern award. Similar to modern awards, certified agreements will also have required content such as the nominal expiry date; permitted content, such as matters relating to wages and other employment relationship matters; and non-allowable content, such as restrictions on access to training. Consistent with the Fair Work Act, certified agreements will be extended from three to four years duration.

The fourth element of the IR framework is streamlined bargaining arrangements for agreement making and for taking protected industrial action. The bill introduces measures designed to reduce protracted dispute and disruption to service delivery, including the introduction of specified time frames in which assisted conciliation and arbitration is to occur. The QIRC may end the bargaining period and commence assisted conciliation if it is considered further negotiation is unlikely to result in an agreement or if the industrial action has been protracted. This is designed to assist both parties when it is evident that an agreement is highly unlikely. The QIRC must commence assisted conciliation where industrial action, or its cumulative effect, is threatening to endanger the health, safety or welfare of the community or threatens access to, or the delivery of, services to the community. Transitional arrangements are provided in the bill to manage the processes for those agreements that have reached their nominal expiry date but are not in arbitration under section 149 of the Industrial Relations Act or will reach their nominal expiry date prior to the modernisation of the underpinning awards. Arbitration proceedings that have already commenced under section 149 will continue. However, the bill allows for two or more of the parties to reach and make a certified agreement under the pre-reform rules.

The fifth element of the IR framework is individual employment contracts for highly paid senior staff. The bill introduces a facility for an employer and an employee to enter into an individual employment contract. Such contracts will only be available to highly paid senior staff. A highly paid senior staff member is someone whose remuneration is above \$129,300. This is the same high income threshold used in the Fair Work Act to determine eligibility for individual contracts. Workers earning less than this threshold will not be affected by this provision. Indexation of this threshold will be made by regulation. When on a high-income guarantee contract, a highly paid senior staff member will move out of the award coverage and have access to collective bargaining.

As a consequence of the reform of the IR framework, other acts that contain employment standards for those in the Queensland industrial relations jurisdiction will require minor amendments. The bill makes appropriate changes to the Hospital and Health Boards Act 2011 in this regard. In addition to the reforming of the IR framework, this bill also introduces changes to improve the operation of Queensland's industrial tribunals. The workload of the Industrial Court of Queensland has significantly declined over the last 10 years. The recent retirement of President Hall from the Industrial Court of Queensland has provided the government with an opportunity to better align the resourcing of the court by returning the position of the president to be a Supreme Court justice on a part-time appointment. The bill provides the president with administrative responsibility for the court and also transfers some matters from the original jurisdiction of the court to the Queensland Industrial Relations Commission. This will further assist the president with managing the workload of the court.

The bill amends the IR Act to allow the Governor in Council to appoint a QIRC deputy president or commissioner on a fixed term appointment of not less than one year. Currently, all appointments to the QIRC can only be made on tenure to age 70. This amendment will provide greater flexibility for the government to address short- to medium-term workload pressures within the QIRC. Fixed term appointment arrangements were a feature of the QIRC prior to 1999 and are currently provided for in the New South Wales Industrial Relations Commission and the Fair Work Commission federally. The bill also allows for applications for trading hours orders to be determined by a single member, except when the vice-president of the commission considers a full bench to be appropriate. Under existing arrangements, trading hours orders are determined by the full bench of three commissioners. In recent years, stakeholders have raised concerns about delays in the hearing of applications for extended trading hours. Allowing for less complex trading hours matters to be dealt with by a single commissioner will help expedite the determination of trading hours orders, alleviate costs incurred by the parties and provide for a more efficient use of QIRC resources.

Other amendments include prohibiting the deduction of industrial organisation subscription fees from an employee's wages. This amendment is made to clarify that an employer will not be in breach of the Anti-Discrimination Act 1991 should it choose to no longer provide a payroll deduction facility for industrial association fees. The government strongly supports and defends freedom of association. However, an employer should not be forced to implement costly payroll deduction facilities for union fee deductions when these matters can be managed directly between the organisation and its members through direct debit.

The bill also clarifies the powers of an industrial inspector to request and inspect records in relation to transparency and accountability obligations of industrial organisations under the IR Act. The bill also introduces an administrative facility to extinguish obsolete certified agreements and removes redundant provisions in the act relating to the now defunct Queensland Workplace Rights Ombudsman's office. The bill also includes amendments to the Superannuation (State Public Sector) Act 1990, the QSuper act. These amendments relocate the provisions of the QSuper act governing the operation, composition, size and tenure of the QSuper Board, which is responsible for administering the state public sector superannuation scheme, to the Superannuation (State Public Sector) Regulation 2006. The bill is all about ensuring our industrial relations framework is modern, flexible and relevant to meet the needs of employers and workers in Queensland's industrial relations system. I commend the bill to the House.

First Reading

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (12.16 pm): I move—

That the bill be now read a first time.

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

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Madam SPEAKER: 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) (12.16 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 (Fair Work Act Harmonisation No. 2) and Other Legislation Amendment Bill by 14 November 2013.

Question put—That the motion be agreed to.

Motion agreed to.