




Speech By
Hon. Curtis Pitt

MEMBER FOR MULGRAVE

Record of Proceedings, 10 May 2017

STATE PENALTIES ENFORCEMENT AMENDMENT BILL

Second Reading

 **Hon. CW PITT** (Mulgrave—ALP) (Treasurer and Minister for Trade and Investment) (8.43 pm): I move—

That the bill be now read a second time.

I would like to thank the Finance and Administration Committee for its report No. 38 tabled on 28 April 2017 regarding the State Penalties Enforcement Amendment Bill 2017. I also thank those who made submissions to the committee and those who appeared as witnesses as part of the committee's inquiry. The committee made two recommendations: that the bill be passed and that the bill be amended to include a catch-all provision for eligibility for work and development orders.

The Queensland government is committed to ensuring that people with SPER liabilities but who are also experiencing genuine hardship have access to work and development orders. We believe this can be achieved within the scope of the categories for work and development orders provided in the bill with the support of comprehensive guidelines that detail the eligibility criteria for each category. On this basis, the government does not accept the second recommendation. I will address this matter further when I come to talk about work and development orders. I am pleased to table the government's response to the committee's report.

Tabled paper: Finance and Administration Committee: Report No. 38—State Penalties Enforcement Amendment Bill 2017, government response [[692](#)].

The State Penalties Enforcement Registry, or SPER as it is more commonly known, is undergoing a significant transformation program. This program will result in a new SPER service delivery model designed to modernise the management of penalty debt in Queensland. The bill supports SPER's new service delivery model and will help address the key challenges facing SPER. When SPER was established in 2000, its business infrastructure and governing legislation were framed to manage individual monetary penalties rather than managing offenders and their offending behaviour. The system assumed debtors would have a single debt they had the capacity to pay and which they finalised promptly. As I said when I introduced this bill, there have been major changes to SPER's operating environment since then. These changes include increases in the number of offences for which infringements can be issued and the increased use of automatic detection technology for offences.

The changes have seen increases in the number of debtors, debt volumes and the value of the debt pool managed by SPER. These changes and emerging challenges mean that SPER requires a new service delivery model. This is best achieved by adopting a case management approach focused on the debtor rather than their debts. This involves using targeted, debtor-specific strategies to recover debt. SPER has already made business and process changes where it can to adopt this new model. SPER's actions have included starting to proactively call debtors to remind them of their obligations; establishing a successful wheel clamping program and seizing vehicles from wilfully noncompliant

debtors; and leading an integrated whole-of-government approach to improve penalty debt management. These initiatives have already seen a significant improvement in SPER's debt finalisation rates and a significant reduction in the growth rate of the debt pool.

Further improvements will be enabled by the replacement of SPER's ageing ICT system with new software as a service solution that moves from a one-size-fits-all debt recovery model to a contemporary risk based approach. The bill before us makes amendments in a number of areas that will support this new approach. A significant proportion of SPER debtors are in financial hardship or are disadvantaged. The State Penalties Enforcement Act 1999 provides limited non-monetary debt finalisation options to debtors in hardship. In practice, the only option available to an individual who has no capacity to pay is to undertake unpaid community service. More options are required to support individuals who genuinely want to meet their obligations but do not have the financial means to do so. This is why the government is introducing a work and development order scheme to provide an expansive range of options for eligible debtors to satisfy their SPER debt.

The bill provides that approved organisations will be able to sponsor individuals experiencing financial hardship to undertake a range of activities to clear their SPER debt, except where that debt relates to court ordered compensation or restitution. Those eligible will include people experiencing domestic and family violence, are homeless, have a prescribed mental illness or substance use disorder or have a cognitive or intellectual disability. Activities that eligible debtors will be able to undertake will include medical or mental health treatment, drug and alcohol treatment, financial or other counselling, educational, vocational and life skills programs and unpaid work as decided by their sponsor. These activities are designed to reduce their likelihood of reoffending.

An important feature of the work and development order scheme is that it involves the development of genuine partnerships between SPER and the community services sector to support people experiencing all types of hardship. The government acknowledges that just because a person is experiencing hardship it does not absolve them from taking responsibility for their offending behaviour. However, fines can have a disproportionate impact on vulnerable people who have very little or no capacity to pay. The challenge is to balance justice and compassion. With work and development orders we think we have the balance right.

The committee recommended that new section 32H, clause 24, be amended to include a catch-all provision for eligibility for a work and development order to cater for circumstances outside those prescribed in the bill. The government agrees with the intent of this recommendation. I said at the outset the government is committed to ensuring that people experiencing genuine hardship have access to work and development orders. The bill provides six eligibility categories for work and development orders, the scope of which will be prescribed by regulation or detailed in comprehensive guidelines provided under proposed new section 150B(2A), clause 78. Guidelines will define the eligibility criteria for each category and include examples of what the criteria may include. The guidelines will be developed in consultation with key non-government service providers, advocacy groups and government agencies. This will ensure that the scheme is sufficiently inclusive to accommodate the broad spectrum of hardship circumstances. On this basis, the government considers that it is not necessary to amend the bill to include a catch-all provision for eligibility for the work and development orders in section 32H and, accordingly, does not accept this recommendation.

Currently, fees charged by SPER under the act to register and enforce debts are complicated. As fees help incentivise both debtor behaviour and early payment of debt, this government is simplifying and streamlining fee arrangements. The bill provides for fees to be applied when SPER takes enforcement action on the debtor's account, replacing the current arrangements where fees are applied to each debt. Fees will also be applied consistently across all SPER debts and enforcement activities. The bill will provide the SPER registrar with authority to waive or return fees where circumstances warrant. This will allow the registrar to take a debtor's personal situation into account in exceptional circumstances.

In terms of the vehicle immobilisation period, in this bill the government aims to strike the right balance between meeting debtors' circumstances, including hardship, and having more effective enforcement for those debtors who can pay but who simply refuse to do so. The bill includes amendments to enhance the effectiveness of SPER enforcement actions, such as vehicle immobilisation and garnishment of wages and financial institution accounts. As I mentioned earlier, SPER has recommenced vehicle immobilisation and seizure and sale, which have assisted to finalise outstanding debts of wilfully noncompliant debtors. Experience has shown that the current immobilisation period is too short. A 14-day period for vehicle immobilisation will provide more time for debtors to finalise their debts. It will give them more time to obtain finance or to substantiate late claims for hardship before the vehicle is seized or sold.

On dispute process improvements, the government is undertaking an integrated approach to penalty debt management. SPER, together with some of the large agencies that issue fines, the courts and Queensland Corrective Services have been working to analyse and improve the end-to-end penalty debt management process. These agencies are represented on a Penalty Debt Management Council established as part of SPER's modernisation program. Currently, debtors may be required to engage with both SPER and the administering authority that issued an infringement to resolve a dispute. Disputes can be about, for example, not receiving an infringement notice. Amendments in the bill will streamline the disputes process so that a debtor will deal with the one government agency best placed to fully resolve their issue.

The information sharing provisions in the bill provide authorisation for information sharing in the specific circumstances outlined in the bill. This is expected to assist with the early identification and contacting of debtors, broadening opportunities for early and effective recovery. Early identification benefits debtors as it may avoid the referral of their debt to SPER and the addition of fees to the original fine. SPER will prepare guidelines that will provide greater operational clarity on information sharing. The committee noted that, while there is a risk of unauthorised disclosure in any information-sharing regime, the guidelines will go some way to prevent this.

In relation to technical amendments to modernise the act, the bill provides for a number of technical changes to assist with the modernisation of the act. The most significant of these is the broadening of service provisions to include service by electronic means with the consent of the debtor and service to postal addresses, including PO boxes. These changes will enable SPER and administering authorities to send infringement notices and other documents to the address that is most likely to result in them being received and acted upon.

There are minor amendments to the bill resulting from the committee process. I propose to move a number of minor and technical amendments to the bill during consideration in detail by the Legislative Assembly. These proposed amendments primarily relate to issues raised by stakeholders during the committee process, as well as minor inconsistencies and drafting issues that have been identified during that process. In their submissions, the Local Government Association of Queensland, the Logan City Council and the City of Gold Coast raised concerns about the potentially restrictive wording of clause 11 of the bill, relating to the recovery of vehicle registration search costs. The submissions sought an alteration of the wording of the clause to enable such costs to be recovered if incurred at any point in the collection process. The purpose of the amendment proposed in clause 11 of the bill is to clarify and replace the arrangements enabling the recovery of verification costs incurred by issuing agencies that are currently provided for in subsection 35(3) of the act. At present, the proposed amendment only enables costs to be recovered when incurred for the purpose of serving an infringement notice. It was not intended to exclude cost recovery for vehicle registration search fees when the search is undertaken after the notice has been served. Clause 11 of the bill has, therefore, been amended to rectify this and provides that vehicle registration search fees can be added to a fine and recovered if reasonably incurred by an issuing authority in relation to the infringement notice. This will cover costs incurred at any point in the process of serving or collecting the infringement notice.

In its submission to the committee, LawRight identified an inconsistency in the provisions providing protection to debtors subject to the garnishment of funds. The act currently preserves a protected earnings amount when a debtor's wages are garnisheed. In the bill, a similar protection will apply when a debtor's account with a financial institution is garnisheed on a single occasion. However, inconsistency arises because no protected amount is preserved for periodic garnishment of a debtor's account with a financial institution. Clause 46 of the bill has been amended to provide a similar protection for periodic garnishment of a debtor's account with a financial institution.

The committee considered that the bill was not sufficiently clear regarding the protection of a debtor's earnings. The committee suggested that this issue would be overcome if SPER publishes information regarding the minimum protected earnings amount on its website. This will be undertaken as part of a comprehensive review of the website, in line with the move to its new service delivery model. Clause 87 has been amended to outline that a regulation may be made about the courses, plans or programs that may be undertaken under a work and development order.

Non-government members of the committee raised a number of reservations regarding the efficacy of the proposed changes to the State Penalties Enforcement Act and how the implementation of the work and development order scheme will be resourced. The bill supports a SPER transformation agenda with new ways of doing things. This change agenda is fully funded. The 2016-17 budget included an investment in SPER of \$65.4 million over five years to support changes to business processes, new systems and staff development. More than \$17 million will be provided on an ongoing basis beyond the five-year horizon. In addition to the injection of new resources, existing SPER

resources will be able to be reallocated as functions are automated and more people who are able to self-serve are enabled by the new system to do so. Resources can be redirected from administrative activities to focus on the debtors who require intervention to meet their obligations, and to recruit and support sponsors for the work and development order scheme.

Experience in other jurisdictions has shown that work and development order sponsors are already servicing the individuals who will benefit from and participate in the scheme. The absence of additional funding for sponsors has not proven a barrier to their participation. We expect a similar outcome for the work and development order scheme in Queensland.

Regarding accessibility of the scheme in regional areas, it is acknowledged that there will be more potential sponsors in metropolitan areas compared to regional Queensland. The same can be said of potential participants in the scheme. SPER will actively target regional sponsor engagement. SPER will leverage existing local and regional community services networks to tap into the services that are available and will look for innovative approaches to facilitate enhanced accessibility.

This bill is a significant piece of legislation necessary to support the implementation of SPER's new service delivery model. It introduces a work and development order scheme; facilitates case management of debtors rather than the management of their individual debts; provides for fairer, simpler and more consistent fee arrangements; enables efficiencies in dispute management; enables enhanced information sharing to assist with fine and debt recovery; and provides more effective enforcement functions for SPER. I ask all members to support this bill and I commend it to the House.