Speech By

David Janetzki

MEMBER FOR TOOWOOMBA SOUTH

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LABOUR HIRE LICENSING BILL

Mr JANETZKI (Toowoomba South—LNP) (9.17 pm): I rise tonight to speak to the Labour Hire Licensing Bill. We have to give it to Labor governments; they are shameless in their love and support for the dead hand of regulation across business, across commerce in Queensland and they are shameless in their absolute support for seeking to gift the union movement with ever greater influence. At a time when union membership is declining around the nation—perhaps about 15 per cent of the total workforce—here in Queensland the union influence seems to determine the legislative agenda of this government and in particular of this minister.

I believe that tonight's bill represents the perfect example of the overreach of union attempts at influence over Queensland businesses and Queensland industry. I submit that it is not just a matter of the dead hand of regulation. I submit that it is not just a matter of ever greater union influence over industry and commerce. I actually submit that this bill we are debating tonight is one of the most technically and legally flawed bills that we have seen. I want to take the House through a couple of the legislative lowlights in the bill and go through them in particular.

I want to start with clause 7 of the bill. This is the definition of 'labour hire services'. It states that 'labour hire services' are defined to mean—

... if, in the course of carrying on a business, the person supplies, to another person, a worker to do work.

Someone could drive a truck through that definition, and I am not talking about the garden variety one tonner. I reckon someone could drive a B-double through that definition. It is absolutely clear that that is precisely what the government thinks as well because they have listed a couple of examples of potential relationships that may be caught by this regulation tonight. The first example is—

- a contractor who supplies workers to a farmer or fruit grower to pick produce for the farmer or grower.

That deserves further contemplation and I will come back to that later in my contribution. The second example in this definition states—

- a group training organisation or principal employer organisation under the *Further Education and Training Act 2014* that supplies an apprentice or trainee to an employer.

I am not sure whether the government recognises that group training organisations are actually a creation of the ACTU along with Lendlease in the 1970s. Group training organisations were set up precisely to assist young men and women into a trade and to get them into a job. We have a situation where the alleged party of the worker in Queensland is seeking to overregulate group training organisations, which will make it more difficult for them to train our young people for tomorrow's jobs.

I have a couple of great group training organisations in Toowoomba, and they have been pretty vocal in their representations to me. Mr Lindsay Weber is the chairman of GoldenWest Apprenticeships in Toowoomba. He is gravely concerned, as are other group training organisations throughout the state, about the impact of the dead hand of regulation and how this bill is going to make it more difficult for them to do their job training the workers of tomorrow. Mr Weber wrote to me saying—

GTOs in Queensland make a substantial contribution to the strategies securing a skilled workforce and tackling youth unemployment. Apprenticeships are not only for the youth, many displaced or disenfranchised adults also obtain trade qualifications and create future careers. Many then go on to be employers in turn, the supporting role of group training extends to those in our communities who are disadvantaged, disabled and distressed. They contribute to the social and economic welfare and prosperity of our great state.

The thing about group training is that labour hire services are completely different in practice and intent, and I think the minister should take this on board. Group training organisations seek to train youth into jobs. They are not job ready. They go on site and work for employers who supervise and train them to appropriate qualifications. With labour hire they are job ready. We are talking about completely different principles here. All I can do is reflect the opinion of the group training industry, which is deeply concerned about what this regulation will mean for their industry. It is not just a matter of group training. We have very clear examples, as the member for Kawana has already articulated tonight, of unintended consequences. The Ai Group said that this was vague in its definitional terms. I believe that WorkPac said it was dramatically flawed in its definitional interpretation.

I want to quickly run through a few of the unintended consequences that I have not heard addressed properly at all during the committee proceedings or here again tonight. These are a few of the potential scenarios: contract teachers engaged by the education department; chaplains seconded from a church organisation into schools; IT contractors who engage a friend for a few weeks work when they are under the gun; the plumber who has a mate who backs him up doing a job from time to time; contracts for services for which skilled and qualified people are assigned to specific projects for specific work; secondment arrangements; transfers of employees between related entities; and disabled employment groups who second workers to community projects. All of these people have no idea of the far-reaching consequences of this bill on offer here tonight from this government. There will be unintended consequences, and people who never in their wildest dreams would have thought they are providing labour hire services will be caught by this regulation. In the context of group training, it will mean that people are less likely to employ young people.

Turning to section 10 in the next legislative lowlight on offer here are the actual penalties that will be imposed on people who are completely oblivious to the regulation's applicability to their operation. For an individual it will be a fine of nearly $100,000 or three years imprisonment—which is similar to breaching a domestic violence order or dangerous operation of a motor vehicle—and for a corporation the fines are in the vicinity of $400,000. It is a matter of the unintended consequences and the flowthrough of significant penalties to people who have no idea that this regulation even exists.

The next stop is section 103 of the bill. Under the proposed legislation we will now have a licensing obligation on labour hire companies. We will now have chief executives setting out a number of grounds that need to be completed and a number of pieces of information that need to be provided, and that will be placed on a public register. It all starts off pretty innocuously with the licensee's name, contact details, business names, ABNs and the like. The kicker is subparagraph (i), which talks about 'the locations in Queensland where work is carried out by workers supplied by the licensee'.

There has already been commentary from the opposition tonight regarding the hidden consequences behind this particular provision, but I want to pass over to Ms Carroll from the AMMA who gave evidence to the committee. She explained that in the resources sector labour might be engaged for one shift which might be seven days, for instance. Over a six-month period—which is the reporting period in the legislation—it may be that a labour hire employee is assigned to a project in circumstances where they might be engaged for a short term or are working on different projects around Queensland. Imagine a company that has 3,000 employees working in the resource sector. Compiling and maintaining a register of information of that nature for the purposes of reporting on it every six months will be ridiculously onerous. We know that trade union officials are hunting down more information than ever before about where workers are located and how many of them work there. They want that register, and they need that register in the face of declining union membership around the nation.

Another issue that I do not believe has been raised tonight in respect of publicly disclosing the locations in Queensland where work is carried out is privacy. Under the proposed legislation an elderly pensioner receiving in-house care from a disability worker will have their address on a public register. I have no conceivable understanding of why that particular regulation is necessary. It is in the bill; it is clear. We will now have privacy concerns about people who are receiving in-house care, and there will

be other scenarios and other unintended consequences. When you turn your mind to the broadness of the definition of labour hire, which I have already talked about, the extent of that definition will be determined from time to time by the chief executive of the day. It will be determined by the minister of the day without any oversight, so we are outsourcing perhaps the most poorly defined legal concept there is to the minister of the day and the chief executive. We are outsourcing the legislature's responsibility to appropriately define such an important term in this bill.

I will turn from section 103 to section 93, which contains the review and appeal provisions that a number of other speakers have already commented on tonight. Section 93 states that 'an interested person may apply for a review of a decision' to grant a licence, revoke, vary et cetera. The definition of 'interested person' is a telling one, in that section 93(3) states—

Interested person means a person or organisation ... who has an interest in the protection of workers or the integrity of the labour hire industry.

A person who seeks to review a decision of a chief executive to grant a licence, revoke or vary any other decision of the chief executive has 28 days from the moment they become aware of that decision. It is possible that union official after union official will line up and seek to delay and frustrate a legitimate process. Then it gets worse, because once the review process to the chief executive is over we start looking at QCAT appeals.

Under section 98, if you have exhausted all other industrial instruments available to you in commissions or tribunals you can make appeals under this particular piece of legislation and then you can go to QCAT. I am not even sure whether QCAT, under the QCAT Act, is properly constituted or has the jurisdiction to consider matters relating to the protection of workers or the integrity of the labour hire industry. I have not heard anything in respect of whether there has been contemplation about the applicability of the QCAT jurisdiction in these matters, particularly when you realise that QCAT explicitly excludes industrial dispute bodies including the Industrial Court, the Queensland Industrial Relations Commission and the review functions of the Public Service Commission. I have not heard any consideration of issues of that nature—whether QCAT is even the appropriate jurisdiction to which to take appeals of this nature.

I return to section 7 of the bill, the definitions section. The first example given in the bill related to essentially the horticultural industry—people supplying workers for the picking of fruit or produce for a farmer or grower. The committee heard some quite disturbing anecdotes and saw some quite disturbing things. I submit that there are existing legislative mechanisms. We know that there are measures available within the federal jurisdiction—the tax act, the Fair Work Act, ABNs issued to employees to make sure employers meet their obligations—and the state has existing workplace health and safety laws that could be further imposed.

Something that has been ignored during this entire process is the self-regulation that is already in place and is becoming ever more prevalent throughout the industry. I refer to the Recruitment and Consulting Services Association, which has been active in developing a national certification program. Ms Hourigan, the Queensland vice-president, spoke eloquently to this program. The RCSA is the peak body for the recruitment and employment sector in Australia and New Zealand and sets the benchmark for industry standards. Their members abide by a code of professional conduct. Beyond this, they have initiated a workforce services accreditation program. The certification was developed in consultation with the NUW and the AWU and has been trialled in Victoria and Queensland in the horticultural sector, where exploitation of workers has been identified. What we see is an industry that is seeking to address these concerns. With the existing federal powers and the existing state powers, I believe that this is a bill in search of a problem that can already be solved by existing mechanisms along with the self-accreditation efforts that are currently underway through the industry.

I reflect on the sledgehammer approach—the dead hand of regulation—being introduced in this bill. The submission of the Anti-Discrimination Commission of Queensland reflected on a United Kingdom act, the Gangmasters (Licensing) Act, which was introduced in 2004 in response to a terrible tragedy in which 21 Chinese workers perished off the Lancashire coast. The tide had swept up around them as they were collecting cockles in the ocean. The response of the government at that time—I know something about this because I was acting as an in-house counsel for a labour hire services company in the United Kingdom at the time—related to the particular industry, addressing the problem in front of them. It was not an overarching overreach of regulation that would impose itself on unsuspecting businesses that would never have contemplated being caught by such legislation.

That particular legislation was specifically limited to wild creature collection and other particular farming activities as well as certain processing and packaging. That was an appropriate response to a terrible tragedy. It was a targeted response, not regulation for the sake of regulation. What has been evidenced in the United Kingdom since the time that law was passed is a far safer environment for

workers in industries, particularly the horticultural industry. A particular option like that was not considered here. Instead, the government reached for the sledgehammer to crack the nut. They reached for the dead hand of regulation. I would argue that, for the sake of workers such as young workers under group training organisation arrangements or for the sake of commerce and industry in Queensland, this bill should be rejected.