




Speech By
Hon. Grace Grace

MEMBER FOR BRISBANE CENTRAL

Record of Proceedings, 25 May 2017

LABOUR HIRE LICENSING BILL

Introduction

 **Hon. G GRACE** (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (11.49 am): I present a bill for an act to provide for the licensing and regulation of providers of labour hire services and related matters. I table the bill and the explanatory notes. I nominate the Finance and Administration Committee to consider the bill.

Tabled paper: Labour Hire Licensing Bill 2017 [\[798\]](#).

Tabled paper: Labour Hire Licensing Bill 2017, explanatory notes [\[799\]](#).

I am proud to rise today as a Labor industrial relations minister to introduce the Labour Hire Licensing Bill 2017. For far too long and far too often we have all heard the stories of vulnerable workers being exploited at the hands of unscrupulous labour hire operators: cases of wage theft and unauthorised deductions, sexual harassment, workers housed in overcrowded and substandard accommodation, a lack of proper safety equipment and training, systemic tax avoidance, sham contracting and phoenixing of companies leaving workers stranded without their entitlements. The tiering upon tiering of labour hire arrangements, found also by the Fair Work Ombudsman, means that workers who have been exploited sometimes do not even know who their actual employer is. These labour hire rorts are fast becoming a national disgrace. Just last month a Queensland labour hire company was found to have underpaid workers \$77,649 over a seven-week period. Some of these workers were at times forced to work entire days harvesting produce without food or drink and without pay, as well as forced to live in isolated, transient accommodation.

Such cases have been reported time and time again through the media and a stream of reports and inquiries, including through our own state parliamentary Finance and Administration Committee, which conducted an investigation into the labour hire industry last year. With this bill we are saying 'enough is enough'. These practices have been going on far too often and for far too long. A business-as-usual approach is not acceptable. The only way to put an end to this kind of appalling exploitation is through the introduction of a proper labour hire licensing scheme, and that is what this bill delivers. If it is good enough to require a licence for those who sell houses or sell cars then, with this bill, we say that you should be required to have a licence if you are in the business of selling human labour to other businesses.

I am proud that the Queensland Palaszczuk Labor government is leading the way by becoming the first jurisdiction to introduce a state based labour hire licensing scheme. We accept that a national licensing system for labour hire would be the best outcome, but with the continuing absence of national leadership on this matter—in fact, the Deputy Prime Minister confirmed yesterday that they want nothing to do with it—the Queensland government is determined to do all it can at the state level to clean up the labour hire sector and protect vulnerable workers. Unlike the Turnbull Liberal-National government, the Queensland government will not sit on its hands and do nothing. In the government's response to

the report from the parliamentary committee in September 2016 we said that we would consider further measures to better protect vulnerable workers from exploitation and ensure improved and effective regulation of the labour hire sector. With this bill before the House today we deliver on that commitment.

I turn now to outline the key features of the bill. The Labour Hire Licensing Bill 2017 will establish a mandatory business licensing scheme for the labour hire industry in Queensland. The twin purposes of the scheme, as set out in the bill, are to protect labour hire workers from exploitation and to promote the integrity of the labour hire industry in Queensland. We know that there are many ethical labour hire operators who have had enough of being undercut by shonky operators who are exploiting workers and tarnishing the reputation of the whole industry.

The two core elements underpinning the whole scheme in the bill are, first, a requirement that all labour hire providers must be licensed to operate in Queensland; and, second, that businesses who use labour hire must only engage a licensed labour hire provider. The bill sets out strong penalties for operating without a licence or for using an unlicensed provider. The other major penalty provision in the bill is targeted at avoidance arrangements which are designed to circumvent or avoid an obligation imposed by this bill.

The bill does not interfere with any existing obligations under workplace relations, taxation, anti-discrimination, health and safety, or independent contractor laws. However, the bill will provide stiff penalties for any business that aids, abets or induces improper or unlawful practices designed to breach or avoid those obligations, whether by threats, promises or otherwise.

In terms of scope, the bill will cover all labour hire providers operating in Queensland regardless of where their registered address might be. The definition of 'labour hire' in the bill is one where a person or business supplies workers to do work for another person, regardless of how the activity might be described. This definition will cover the traditional and well-understood on-hire labour hire arrangement as well as group training schemes. It will also ensure that pyramid labour hire arrangements, where there may be several layers of labour hire providers, and sham contracting out labour placement arrangements will also be captured in the licensing scheme if a labour hire provider enters into an arrangement with a client or end user to provide workers but they source the workers from another entity, then that entity also needs to be licensed.

The intention of the bill is to cast a wide net over labour hire arrangements but not clog up the licensing system with other arrangements that fall outside genuine labour hire. Genuine recruitment, permanent placement and workplace consulting arrangements are not within the ambit of the licensing scheme. If a business supplies workers whom the end user then employs themselves, that is not an arrangement that the bill is designed to capture. Neither does the bill intend to cover genuine subcontracting where, for example, a builder subcontracts a plumber to do the plumbing work on a small construction site.

The basic features of labour hire that the bill intends to capture are where a person supplies workers to another person—the end user, or client—the client pays the provider for that service, and the labour hire provider pays the workers for that work. The bill also makes provision for regulations to be made to provide further clarification on the scope of the bill to ensure that coverage does not capture unintended classes of providers or workers. We are confident that the definition does what it needs to do to cover labour hire, but we acknowledge that there are a multitude of arrangements out in the labour market and we fully expect that we will get further submissions on these matters through the committee process.

The bill sets out the conditions and requirements that must be met to obtain and continue to hold a licence. Under the bill, a labour hire provider must satisfy a fit and proper person test to establish that they are fit to hold a licence to provide labour hire services. They must have a history of compliance or ability to comply with all relevant laws and also be able to show that the business is financially viable.

The licence will be renewable annually and all licence holders will be required to report on their performance, including any breaches of workplace laws. An annual licence fee will be payable upon the original application and all subsequent licence renewals. The fee will be set in subordinate legislation and will be structured according to the size of the business, based on a calculation of turnover and wages paid. It is anticipated that the fee will be \$1,000 for a small labour hire provider, \$3,000 for a medium provider and \$5,000 for a large provider. By design, these fees are not high or onerous. They are not set as a barrier to entry or as a deterrent for continuing labour hire operations. The fees are set at a level that will support the extra resources required for the enforcement and compliance activities that will underpin this licensing scheme.

Under the bill there will be a public register of licensed providers. This will allow businesses to check on the bona fides of a labour hire provider they are considering using and also enable workers and prospective workers to ensure that the labour hire provider they might work for is licensed. Through

the application process and the reporting requirements under the bill, data will be captured in relation to labour hire arrangements in Queensland to inform industry and the government of trends and emerging issues in the industry and to monitor the effectiveness of the scheme.

Licensing decisions will be made by the chief executive and will be subject to a review and appeal process as set out in the bill. Appeals against licensing decisions will be heard in the Queensland Civil and Administrative Tribunal, QCAT. Because of the broad community interest expressed in this scheme, persons or organisations with an interest in the protection of workers or the integrity of the labour hire industry will have standing to review and appeal licensing decisions.

Stakeholder feedback during consultation on the bill revealed a very high expectation for strong enforcement and monitoring of the labour hire licensing scheme. In response, a compliance unit will be established in the Office of Industrial Relations within Queensland Treasury to promote awareness of the scheme and ensure compliance. Inspectors will be appointed under the terms of the bill and will investigate and prosecute suspected breaches and, where proven, licences will be revoked. Inspectors will have powers to enter, question and seize documents or things. The inspectors will also be in a position to assist other enforcement agencies with intelligence gathering and referral capabilities. As noted earlier, revenue generated from the licensing scheme will be used to cover the costs of the inspectorate.

The development of the Labour Hire Licensing Bill has been informed by evidence from numerous inquiries and from extensive consultation with the community, with users of labour hire arrangements, with the labour hire industry and with the unions who represent the interests of labour hire workers. Since responding to the parliamentary committee's report in September 2016, I have sought feedback from stakeholders on the components of a labour hire licensing scheme and other measures to stop the exploitation and mistreatment of workers, to stop unfair competition and provide minimum standards for operating as a labour hire provider.

The government released an issues paper in December calling for public submissions over a seven-week period. A total of 40 submissions were received from labour hire businesses, workers, consumers, unions, industry peak bodies, academics and other community representatives. Since then I have met personally with a number of stakeholders across the labour hire industry. The advice from industry users, labour hire providers, community groups and worker representatives largely supports the introduction of a labour hire licensing scheme as a means to protect vulnerable labour hire workers from exploitation, to support ethical and responsible labour hire providers and also to provide confidence to host employers who utilise labour hire arrangements in good faith.

In preparing the Labour Hire Licensing Bill, the government has sought to balance the need to provide protections for vulnerable workers and rid the industry of cheats and rorters with minimising the administrative burden on those labour hire providers who operate ethically and in compliance with all their legal obligations. I trust that every member in this place shares this government's unwavering commitment to rid this state of the scourge of dishonest and shonky labour hire operators. This bill will drive out those cheaters and rorters who exploit labour hire workers, who take unfair advantage of those businesses that do the right thing and who bring the entire industry into disrepute. This bill will protect both workers and those reputable labour hire providers that are doing the right thing.

I come back to the point I made at the outset: if you need a licence to operate a real estate agency or to be a motor car dealer, for example, then why should you not need a licence to run a labour hire firm that hires out labour? I am proud to be part of a Labor government that is leading the way as the first jurisdiction to introduce a labour hire licensing scheme. I commend the bill to the House.

First Reading

Hon. G GRACE (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (12.05 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 Finance and Administration Committee

Madam DEPUTY SPEAKER (Ms Farmer): In accordance with standing order 131, the bill is now referred to the Finance and Administration Committee.

Portfolio Committee, Reporting Date

Hon. G GRACE (Brisbane Central—ALP) (Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs) (12.05 pm), by leave, without notice: I move—

That under the provisions of standing order 136 the Finance and Administration Committee report to the House on the Labour Hire Licensing Bill by 24 July 2017.

Question put—That the motion be agreed to.

Motion agreed to.