




Speech By
Stephen Bennett

MEMBER FOR BURNETT

Record of Proceedings, 4 September 2018

PLUMBING AND DRAINAGE BILL

 **Mr BENNETT** (Burnett—LNP) (12.51 pm): I can advise the House that the LNP's position is to not oppose the bill. It is apparent that following a lengthy review the need to modernise the language and structure of the Plumbing and Drainage Act 2002 is required to better reflect industry and community expectations. We know that community engagement was held across the state and continued until today.

I can say coming from a building background as a registered builder that we often underestimate how important the plumbing industry is to the public health and safety of us all and, importantly, the environment. Reviews and legislation that modernise the industry are worthy of scrutiny and review. I can give the House a couple of examples. The minister alluded to medical gas concerns in New South Wales. Locally in Bundaberg there was the contamination of PFAS in our water system—potable water. These are two examples of why this legislation is important.

Following the introduction of this bill the government needs to undertake further consultation to ensure the new plumbing laws are more easily interpreted and readily understood by users. It could be argued as is the case in the industry that the aggressive and inconsistent policy platform particularly of this minister leaves us all concerned with what the end game might look like. With far more reaching transitional arrangements in the legislation, we again have legislation not clear to the industry and are being asked to put our complete faith in the government.

As with many of the laws introduced by the Labor government, stakeholders expressed concerns that the plumbing laws were difficult to interpret, not readily understood by users and sometimes misunderstood. Many of the legislative requirements previously introduced have involved lengthy time frames and added to industry and consumer cost and erosion of confidence. I speak for the small operators who just want the government to get out of the way and to reduce red tape, not create more and more.

Some background on the bigger issues within the plumbing industry which are rectified in the legislation has just been alluded to by the minister. He talked about how the LNP government in 2014 made a decision to move plumbing licence administration to the QBCC and that if a trade contractor licence in plumbing was held there was no requirement to maintain a corresponding occupational licence. There was no longer a requirement to pay renewal fees, and the plumbing industry was notified of these important changes—important changes about our commitment to removing red tape and getting out of the way of small businesses.

Subsequent to the change of government in 2015, it appears that the Plumbing and Drainage Act was never amended to effect that change. We can always apportion blame, which is this government's right to do, but this government has been in place for four years now, and to make assertions that the last six months of the Newman government did not deal with this amendment is somewhat disingenuous. The cost to apply for a new licence is \$335. Anyone in small business knows that any saving you can give to small businesses is welcome. I note that amendments will be moved and that we will not be opposing those amendments.

The bill seeks to deliver a consistent penalty framework. In this regard, penalties for unlicensed plumbing work and for offences that endanger public health and safety have been increased. The bill also amends the Queensland Building and Construction Commission Act 1991 to establish a new licence to regulate mechanical services—heating and cooling units—and medical gas work in large or public buildings where incorrect installations can have, as we know, fatal consequences.

The bill contains two clauses—157 and 174—to handle transitional arrangements but these are free ranging and potentially open to abuse. I will outline the problems with these clauses when we seek—depending on the minister’s response—to oppose clause 174. We seek assurances as this is taking flexibility to a whole new level and we are being asked to trust the minister.

As highlighted in the statement of reservation contained in the Economics and Governance Committee report, the LNP raised the issue of a separate occupational licence for the refrigeration and air-conditioning industry, the suitability of training, safety matters associated with air-conditioning gases and the need for closer consultation between government and industry. When legislation is handing unprecedented powers to a minister who then commits to consultation with industry at a later date, one can appreciate the concerns that have been raised.

Amendments that are generally supported have been outlined and they are exactly what I raised in the last term of government around the security of payments issue. The amendments today are an example of what happens when we do not listen to all sides of the government and opposition and we do not listen to the industry. Those amendments about the BIF were raised during consideration in detail. Again, I think the industry will look forward to consistency, particularly around fairness of payments and security of payments in the future.

The Plumbing and Drainage Bill was introduced on 15 February 2018 and was referred to the committee for detailed consideration. It reported back on 9 April 2018. The committee made three recommendations. I listened to the minister’s response and we welcome those recommendations.

The statement of reservation lodged by the two LNP committee members expressed concerns over the licensing situation as it applies to the refrigeration and air-conditioning industry. We must ensure that everyone is suitably qualified, trained and aware of safety, particularly around air conditioning and gases. The minister’s comments in that regard were welcome.

The purpose of the bill is to establish a contemporary, streamlined and flexible legislative framework for plumbing and drainage that is clear and simple for the end user. We know that the industry and community look forward to the further rollout of expectations for community consultation about what the changes will mean. The bill provides authority for the making of a contemporary plumbing regulation that will be easy to use and include improved regulatory requirements for obtaining approvals for plumbing and drainage work. Everyone can accept that is an important step forward and everyone in the industry welcomes the reduced time frames.

The bill provides authority for the making of a plumbing code that will include all plumbing standards required to vary and complement national plumbing standards. The bill will regulate mechanical services work including medical gas work. We heard how devastating getting that wrong can mean.

While acknowledging that an overhaul of the legislative framework to improve and modernise it is a worthy undertaking, we express concern that even after a comprehensive consultation program there still appears to be a level of confusion within sectors of the industry over how things will work under the new arrangements.

In terms of the establishment of a new mechanical services licence, we stress the importance of the government working through the proposed regulation with industry to identify the impacts and ensure the industry is well placed prior to its introduction. We recognise that there is a specialised skill set involved, particularly in medical gas, along with the serious implications of this work.

It is noted that when contemplating the new amendments the LGAQ raised concerns about the need for clarity and flexibility with local authorities, particularly in rural Queensland, in relation to the testing regime for greywater coming out of septic tanks. It was also raised in the statement of reservation. It is noted that the proposed new mechanical service licence was initially based on the Victorian mechanical service licence model. In response to stakeholders’ feedback about applying the Victorian model, the mechanical service class was refined although there are still some questions over the proposed approach and implementation.



Mr BENNETT (Burnett—LNP) (4.23 pm), continuing: It is noted that the proposed new mechanical services licence was initially based on the Victorian mechanical services licensing model but, in response to stakeholders' feedback about applying the Victorian model in Queensland, the mechanical services class was refined, although there are still some questions over the proposed approach and implementation.

In terms of the training and experience required to perform mechanical services work, it is noted that there was no consensus across the submissions received about the technical qualifications needed, and concerns about qualifications and training were understandably raised in the statement of reservation. It is noted with concern that the proposal includes transitional arrangements being handled by regulation. I refer to clause 174. It is stated that it is intended to be a temporary measure to facilitate a smooth transition to the new legislative scheme by enabling a regulation to be made to address any emerging or unforeseen issues. I intend to talk more about clause 174 during consideration in detail. I again express my concerns about clause 174.

Clause 174 is broad ranging and free ranging. I do not know that any legislation should contain something so flexible, open-ended and open to abuse. The government has had four years to put this legislation together, after taking office in 2015. In light of the last two major pieces of legislation, we have a lot of concern and a lot of questions about open-ended clauses that allow a minister and faceless people to act without the scrutiny of the parliamentary process and without review by this House.

The Queensland Law Society shares our concerns about clause 174 containing a transitional regulation-making power that allows the legislature to bypass the parliamentary process. It further said that any material that imposes obligations or affects the rights of individuals should be included in the primary legislation. For those who do not know, this type of clause is termed a Henry VIII clause, which is a clause of an act of parliament which enables the act to be expressly or impliedly amended by subordinate legislation or executive action, not legislative action.

Henry VIII clauses may be acceptable for use in the transitional arrangement of urgent bills when the regulation contains a sunset clause. While this regulation contains a sunset clause of 12 months, the bill comes into force on assent and the committee's comment advises that the bill does not appear urgent. It is not. This lazy approach is not supported in that it basically shifts the authority for making legislation away from the responsibility of elected officials and gives the power to faceless bureaucrats.

We see significant amendments today—a terrible example of why we have ongoing concerns with open-ended policy development being introduced into the building industry. Today's amendments dealing with the security-of-payments legislation are policy on the fly. Again, these proposals have not been scrutinised via the parliamentary committee process. There are significant items such as reducing the time frame for issuing a payment schedule from 20 days to 15 days.

We also see more work being introduced in relation to nonconforming building products. The changes expand those captured in the product supply chain to include architects and engineers, designers, manufacturers, importers, suppliers and installers. These important reforms to address nonconforming building products are being supported by both sides of the House.

The LNP has always been a strong supporter of trades and industry and recognises the major contribution that many small businesses in particular make to employment and economic growth in Queensland. It is not always about trade unions and it is not always about the big end of town. I think we in this place need to engage with those mum-and-dad businesses that are the backbone of Queensland. The LNP has a proud track record of working with industry in developing policy initiatives and framing legislation that will best suit the needs of business and the community. We certainly have not needed open-ended clauses to continue to ratify, fix and modify legislation on the run. We support the existing trade qualification of HVAC and refrigeration mechanics and think it is time it is a stand-alone occupational licence. In conclusion, I again flag that clause 174 will be discussed further during consideration in detail.