




Speech By
Hon. Grace Grace

MEMBER FOR MCCONNEL

Record of Proceedings, 27 November 2019

COMMUNITY SERVICES INDUSTRY (PORTABLE LONG SERVICE LEAVE) BILL

Message from Governor

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (4.03 pm): I present a message from His Excellency the Governor.

Mr DEPUTY SPEAKER (Mr Weir): The message from His Excellency the Governor recommends the Community Services Industry (Portable Long Service Leave) Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

COMMUNITY SERVICES INDUSTRY (PORTABLE LONG SERVICE LEAVE) BILL 2019

Constitution of Queensland 2001, section 68

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intitled—


A Bill for an Act to provide for an equitable and efficient system of portability of long service leave in the community services industry, and to amend this Act, the Building and Construction Industry (Portable Long Service Leave) Act 1991, the Contract Cleaning Industry (Portable Long Service Leave) Act 2005, and the Industrial Relations Act 2016 for particular purposes

GOVERNOR

Date: 26 November 2019

Tabled paper. Message, dated 26 November 2019, from His Excellency the Governor, recommending the Community Services Industry (Portable Long Service Leave) Bill 2019 [2151](#).

Introduction

 **Hon. G GRACE** (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (4.04 pm): I present a bill for an act to provide for an equitable and efficient system of portability of long service leave in the community services industry, and to amend this act, the Building and Construction Industry (Portable Long Service Leave) Act 1991, the Contract Cleaning Industry (Portable Long Service Leave) Act 2005, and the Industrial Relations Act 2016 for particular purposes. I table the bill and the explanatory notes. I nominate the Education, Employment and Small Business Committee to consider the bill.

Tabled paper. Community Services Industry (Portable Long Service Leave) Bill 2019 [2152](#).

Tabled paper. Community Services Industry (Portable Long Service Leave) Bill 2019, explanatory notes [2153](#).

I am proud to be introducing today a bill to establish a portable long service leave scheme for the community services sector. This is a reform whose time has well and truly come. To quote from the Services Union who have campaigned tirelessly for their hardworking members and workers across the sector to see this come to fruition—

... these are workers often working in high stress, crisis and trauma environments. They are dedicated to the industry, and have a passion for the work they do and the clients they support. Yet they are denied access to long service leave due to the nature of the industry, not because of their lack of service to it.

The portable long service leave scheme established under this bill will, for the first time in Queensland, allow community service workers to accumulate service across the community sector as a whole, providing many of the estimated 45,000 workers in the sector with access to long service leave entitlements for the first time.

These are workers who are on the front line day in and day out, supporting and advocating for some of our most vulnerable fellow Queenslanders—providing alcohol and drug services, child safety and support services, family and domestic violence services, disability support, mental health and homelessness support, to name a few. If anyone deserves long service leave, it is these workers, and that is exactly what this bill delivers.

This bill continues the evolution of long service leave, a particularly Australian workplace innovation that began back in the 1850s as a way to provide public servants with the opportunity to return 'home' to England for a period of extended leave. Over time it extended to become a general entitlement for all workers, whether in the public or private sector, as recognition of a period of long service with the one employer and to provide some rest and respite before returning to work.

In more recent history we have seen the introduction of various portable long service leave schemes across the country. These schemes have recognised that in some industry sectors it is very difficult for workers to accrue sufficient service with the one employer to attract long service leave. This is no fault of the workers or employers in those industries. It is simply a reflection of the way those industries are structured and organised in terms of their contractual or funding arrangements.

This started from the 1970s onwards with the establishment across the country of portable schemes for the building and construction industry. Queensland, under the Goss Labor government, came on board with the Queensland building and construction portable scheme introduced in 1991. This was followed in 2005, when the Beattie Labor government introduced a portable long service leave scheme for contract cleaning workers in Queensland.

The tradition continues today, with the Palaszczuk Labor government recognising the special circumstances in the community services sector that warrant a portable long service leave scheme and taking action to deliver it. In doing so, we are delivering once again on our election commitments, which included a commitment in 2017 to investigate options for a portable long service leave scheme for the community services sector.

In introducing this bill, I would like to pay tribute to the way the sector as a whole has worked together to help make this scheme a reality. Late last year we went through the regulatory impact statement consultation process which showed there was broad in-principle support for a scheme. Over 300 submissions were received through this process from workers, employers and peak bodies in the community services industry. Workers wrote of their own experiences and why this scheme was so important to them. One worker recounted how she had worked in disability services since 1983 and had never qualified for long service leave with one employer.

Throughout this year we have been continuing the detailed policy and actuarial work required to underpin this scheme. To bring the sector together to work through the detail, in May this year I established a stakeholder task force to provide advice on the development, design and implementation of such a scheme. This was an important step because our experience is that these schemes work best when there is a broad level of support and consensus across the sector.

The task force included a range of peak bodies and unions: QCOSS, the Services Union, the Community Services Industry Alliance, the Australian Workers' Union, National Disability Services, United Voice—now the United Workers Union—Community Legal Centres Queensland and the Queensland Council of Unions. The task force has met 10 times since May and was able to reach consensus on the key design features of a portable scheme which forms the basis of the bill before the House today, including: broad coverage of community services workers, including administrative staff and other workers supporting the provision of community services; no recognition of retrospective service, but earlier access to leave after seven years service; and a starting levy rate as low as possible. This agreed model provided a good way forward, and I thank all members of the task force and other stakeholders across the sector who participated in the consultation processes thus far. The bill will now be referred to the committee for scrutiny, and I look forward to the results of that further consultation process.

I turn now to further details of the bill and the scheme it establishes. As with existing schemes, the scheme will work by employers registering and providing a return to QLeave about the hours worked and the earnings of their workers covered by the scheme for each quarterly return period, then paying a levy based on the earnings recorded. The levy rate, to be prescribed in subordinate legislation, is based on actuarial advice and is proposed to be 1.35 per cent of a worker's ordinary wage. A levy rate of 1.35 achieves the aim of keeping the rate as low as possible for employers while delivering the most beneficial entitlement to workers. It is also lower than starting levy rates for similar community services

schemes. In terms of other jurisdictions, Victoria started their community services scheme this year with a levy rate of 1.6 per cent and the ACT commenced at 1.67 per cent in 2010, but I believe it is a lot lower now.

In terms of coverage, the bill provides portable long service leave for all workers in non-government organisations in either the profit or not-for-profit sectors that are established for, or whose purpose includes, providing community services. Because coverage under the scheme includes those workers providing support to frontline community workers such as administrative and management staff, I acknowledge some ASU delegates who are in the gallery today listening to me introduce this bill. It has been a long road for them. It has been many, many years, and as Minister for Industrial Relations I am very proud to be delivering on our election commitment by introducing this bill today.

It also includes aged-care or childcare workers if their work supports the employer to provide community services. For example, childcare workers who work in a domestic and family violence service or neighbourhood community centre would be covered, but those working in standalone kindergartens or long day care centres would not, so it is about the provision of the service. The scheme is not retrospective; that is, actual accruals for the purposes of the scheme start once the scheme commences and when workers are registered. However, eligible workers will be able to access long service leave after seven years service in the community services sector rather than the standard 10 years with a single employer under the Industrial Relations Act. While access to the entitlement will be earlier, the entitlement under the scheme is accrued at the same rate as provided under the Industrial Relations Act, so it is all pro rata.

The governance and compliance provisions of the scheme are modelled on the Contract Cleaning Industry (Portable Long Service Leave) Act 2005 and the scheme will be administered by Queensland's existing portable long service leave authority: QLeave. This recognises the efficiencies that QLeave can provide both in establishment costs and in administration as well as the long and successful record of QLeave in administering existing portable long service leave schemes. Under the bill, a new governing board will be established to oversee QLeave's administration of the scheme similar to the structure and governance model already in place for Queensland's existing scheme. The board will consist of a chair and deputy chair with financial and investment expertise and an equal number of employer and employee representatives. It is proposed that the scheme commence from 1 July 2020.

The bill also amends the Industrial Relations Act to confirm that employees have access to pro rata long service leave in circumstances where they are dismissed by their employer due to an illness based incapacity. This amendment follows the case of David Schipp, a worker at the Star Casino who was dismissed after nine years and eleven months service with that employer. Mr Schipp just missed out on the general entitlement to leave after 10 years and was also denied access to pro rata long service leave on termination after seven years because he was deemed not fit because of illness to perform the inherent requirements of his role. The decision by the employer to not pay pro rata long service leave was upheld by Commissioner Thompson in the QIRC and then on appeal by Deputy President Merrell of the Industrial Court.

In my public comments after the appeal was dismissed I indicated that this case highlighted an anomaly that needs to be addressed, as it was never the intent of the legislation for a worker in this situation to be denied access to their long service leave entitlements. The interpretation that was taken in relation to Mr Schipp creates the untenable situation where a worker who resigns because of illness would be entitled to pro rata long service leave, but the same entitlement does not apply if it is the employer who dismisses the employee for the same reason. The government's view is that, in cases of termination due to illness related incapacity, the entitlement should apply equally in all cases. That was the original intent. It should not be dependent on whether it is the employer or the employee who terminates the employment. The amendment makes this clear.

In introducing this amendment I would like to personally acknowledge the efforts of David Schipp in this matter. While it may be of no great consolation in terms of his own personal situation, he should be proud of the way he has advocated on this matter, taking this matter to the commission and then on appeal to the Industrial Court. His advocacy has highlighted the need for legislative change and will benefit workers in future who are faced with a similar scenario.

The bill continues the proud record of the Palaszczuk government in leading the nation in standing up for workers' rights and continually striving to improve the lives of working people. We have done it through labour hire licensing, our industrial manslaughter laws, our domestic and family violence leave, our response to silicosis, our reforms to workers compensation—the list goes on—and in particular, our wage theft inquiry. Through this bill we are ensuring that community services workers will get well-deserved access to long service leave after seven years service in this critical industry.

I again acknowledge those in the gallery and I commend the bill to the House.

First Reading

Hon. G GRACE (McConnel—ALP) (Minister for Education and Minister for Industrial Relations)
(4.18 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 Education, Employment and Small Business Committee

Mr DEPUTY SPEAKER (Mr Weir): In accordance with standing order 131, the bill is now referred to the Education, Employment and Small Business Committee.