Speech By

Hon. Grace Grace

MEMBER FOR MCCONNEL

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COMMUNITY SERVICES INDUSTRY (PORTABLE LONG SERVICE LEAVE) BILL

Second Reading

Hon. G GRACE (McConnel—ALP) (Minister for Education and Minister for Industrial Relations) (4.31 pm): I move—

That the bill be now read a second time.

This is a momentous day for workers in the community services sector. The portable long service leave scheme to be established under this bill will, for the first time in Queensland, allow community services workers to accumulate service across the community services sector as a whole, providing many of the 45,000 workers in the sector with access to long service leave entitlements for the first time. In establishing this portable scheme, we recognise that it is very difficult for workers in the community services sector to accrue sufficient service with the one employer to attract long service leave. This is no fault of the workers or employers in the sector; it is simply a reflection of the short-term contractual and funding arrangements that operate in the sector.

Surveys indicate that over 70 per cent of community services workers with over 10 years of service in the sector had never achieved sufficient service with one employer to access long service leave—workers like Nick Collyer, who made a submission to the parliamentary committee inquiry. Nick has worked in the sector for 31 years and qualified for long service leave just once. Nick currently works in a position that is funded by a Commonwealth program until the end of June 2020. He has been in that position for almost nine years now. If, as often happens in the sector, the program ends, he will lose all his accrued long service leave, and for the second time in his career Nick would have missed long service leave by less than a year, through no fault of his own.

Maria Leebeek has worked 28 years in the sector across six employers and has never had long service leave. As she said in her submission to the committee, she wants to work in the industry to support those in the community who are most vulnerable and marginalised. This bill is all about making sure that, in future, workers like Nick and Maria—loyal, dedicated, professional, long-serving community services workers—get their just entitlement to a period of long service leave in recognition of their service and commitment to the sector.

We must remember that these are not high-paid workers we are talking about. They are largely female, with 75 per cent of the sector's workforce being women compared to 47 per cent of the total Queensland workforce. They are often exposed to traumatic and stressful situations. Day in, day out, they are on the front line supporting and advocating for some of our most vulnerable fellow Queenslanders—providing alcohol and drug services, child safety and support services, accommodation support, family and domestic violence services, disability support, mental health and homelessness support, to name just a few. If anyone deserves long service leave it is these workers, and that is exactly what this bill delivers.

I will quote again from the Services Union, which has campaigned tirelessly for its hardworking members and workers across the sector to see this come to fruition. It said—

... 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.

I welcome the report of the committee which was tabled on 14 February 2020. I would like to thank all members of the committee, chaired expertly once again by the member for Nudgee, and the secretariat. I would also like to thank those who made submissions to the committee about the bill and those who appeared as witnesses as part of the committee's inquiry. I am pleased to report that the committee found there was broad support for the establishment of a portable long service leave scheme for the community services sector and recommended unanimously that the bill be passed without amendment. I look forward to the support of those opposite. It is certainly a bill that deserves bipartisan support.

The committee inquiry was the culmination of a long and extensive process of consultation and scrutiny leading to the bill currently before the House for debate. A regulatory impact statement consultation process in late 2018 received over 300 submissions from workers, employers and peak bodies in the sector, and it found there was broad in-principle support for a portable scheme. Throughout 2019, we undertook the detailed policy and actuarial work required to underpin the scheme.

In May 2019, 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, the United Workers Union, Community Legal Centres Queensland and the Queensland Council of Unions.

The task force met 10 times in total and was able to reach a consensus position on key features of a portable scheme which form the basis of the bill before the House today, including: broad coverage in line with the federal industry award, including administrative staff who work in a community services organisation; no recognition of retrospective service but earlier access to leave after seven years service, rather than the standard entitlement of 10 years in the Industrial Relations Act 2016; and a starting levy rate as low as possible. This agreed model provided a constructive way forward and I again thank all members of the task force for their hard work on this, and I thank other stakeholders across the sector who participated throughout the consultation processes.

I turn now to key features of the bill and the scheme that it establishes. Currently in Queensland, all employees, no matter what sector they work in, are entitled to long service leave under the Industrial Relations Act 2016 if they reach the qualifying period of 10 years service with their employer. Under this bill, eligible workers in the community services sector will be eligible to access long service leave after seven years service in the community services sector, whether that service is accrued with one employer or more. The amount of long service leave paid to a worker after seven years will be based on their ordinary wage at the time of taking leave, calculated proportionately on their pay and service during the period of accruing the entitlement. For example, a worker working full-time for seven years on the award rate of pay will be entitled to 6.1 weeks leave at the award rate of pay.

The scheme will work by employers registering and providing a 'return' to QLeave about the hours worked and earnings of their workers covered by the scheme for each quarterly return period, then paying a levy based on the earnings reported. The levy rate, to be prescribed in subordinate legislation, has been based on actuarial advice and is proposed to be 1.35 per cent of a worker's gross ordinary wage. It should be noted that employers in the sector are already required to make provision for long service leave for their employees. On average, this amounts to 1.67 per cent of wages based on the entitlement in the Industrial Relations Act. The proposed starting levy rate will be less than this and lower than the levies initially set in other jurisdictions when they first established portable long service leave schemes for this industry. Victoria started their community services scheme in 2019 with a levy rate of 1.67 per cent, while the ACT commenced at 1.67 per cent in 2010 and is now at 1.2 per cent.

A levy rate of 1.35 per cent achieves the aim of keeping the rate as low as possible for employers while delivering the most beneficial entitlement to workers. To ensure this continues to be the case, the bill includes a requirement for the levy rate to be investigated and reviewed at least every two years. While employers will be given 90 days to register with the scheme, workers will start accruing their portable long service leave entitlement from the commencement date. The levy will be calculated on wages paid from commencement of the scheme but will not be payable until 14 days after the first quarterly return period.

The scheme is not retrospective. That is, it will not recognise service before the commencement of the scheme. However, workers with existing service with their current employer when the scheme commences will still have that previous service recognised and have access to long service leave if and when they reach 10 years of service with that current employer. That is, the scheme does not displace the existing entitlement of workers to access long service leave after 10 years with a single employer.

The coverage of workers and employers under the scheme is intentionally broad. It will apply to workers across non-government organisations, in either the profit or not-for-profit sectors, that are established for, or whose purposes include, providing community services. Schedule 1 of the bill sets out a broad, indicative range of service types that are intended to fall under the scheme. Within those organisations, the bill covers frontline community services workers as well as administrative and management staff that support the provision of community services.

The scheme can extend to self-employed contractors who may elect to become both a worker and an employer under the scheme and make voluntary contributions. This recognises that during their time in the community services sector people may move between working on a contractor basis and being employed directly. Workers in the sector engaged through labour hire are also covered.

The scope of the scheme also includes aged-care or childcare workers if they work in a community services organisation. For example, childcare workers who work in a domestic and family violence service or a neighbourhood community centre would be covered, but those working in standalone kindergartens or long day care centres would not.

I note the committee's report into the bill considered the proposed scope of the scheme is appropriate to allow for flexibility in the community services industry, and to provide benefit to a wide range of roles and organisations within the industry. Importantly, QLeave and the Office of Industrial Relations will provide detailed guidance and supporting materials, including examples of scope and coverage, and will be available to talk with any organisations that may not be sure if they are captured by the scheme.

The administrative, governance, and compliance provisions for the community 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 authority, QLeave. This recognises the experience and efficiencies that QLeave can provide both in establishment costs and administration, and the long and successful record of QLeave in administering the existing portable long service leave schemes for both the building and construction industry and the contract cleaning industry. 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 schemes. The board will consist of a chair, a deputy chair with financial and management expertise and an equal number of employer and employee representatives.

The proposed commencement date for the scheme will be on a date to be fixed by proclamation, and I will be moving an amendment during consideration in detail to provide for this. The bill as it was introduced last December currently specifies a starting date of 1 July 2020. This starting date was based on the original parliamentary timetable that would have seen this bill being debated during the March sitting. This was not possible, of course, because of the impact of COVID-19. Given the delay in the bill being debated in parliament, the proposed commencement date will also be delayed to reflect this. Subject to passage of this bill, my department and I will then consult with stakeholders on an appropriate commencement date that starts the scheme as soon as possible for the benefit of workers while providing QLeave and employers with sufficient advance notice and time to prepare.

The bill also amends the Industrial Relations Act to confirm access to pro-rata long service leave for employees who are dismissed by their employer due to illness based incapacity. This amendment follows the case of David Schipp, a worker who finished at Star casino after nine years and 11 months service with that employer. Having just missed out on the general entitlement to long service leave after 10 years, Mr Schipp was then 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 in the Industrial Court. However, the outcome is inconsistent with the intent of the provision and common practice. It was never the intent of the legislation for a worker in this situation to be denied access to their long service leave entitlement.

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 after seven years service, but the same entitlement does not apply if it is the employer who dismisses the employee

for the same reason of illness based incapacity. In short, the entitlement in cases of termination related to illness related incapacity should apply equally in all cases. It should not be dependent on whether it is the employer or the employee who terminates the employment. The amendment makes this clear.

I would like again to personally acknowledge the efforts of David Schipp in this matter. I understand that it is little consolation for him in terms of his own case at Star casino, but his persistent advocacy has been instrumental in highlighting the need for legislative change and will benefit workers in future who are faced with a similar scenario.

Previously I flagged an amendment to be moved during consideration in detail to provide for the commencement date of the scheme to be a date fixed by proclamation rather than the original commencement date in the bill of 1 July 2020. For the benefit of the House, I now outline amendments that I will be moving during consideration in detail. First I turn to the amendments relating to the public holiday on 14 August. They include amendments to the Holidays Act 1983 to establish the start of the people's long weekend on Friday, 14 August for the city of Brisbane and a number of council areas across the state. These amendments give effect to the Premier's announcement in the House on 21 May that for one year only the Ekka show holiday would be moved from Wednesday, 12 August—I have missed out on a birthday public holiday—to Friday, 14 August for the city of Brisbane. We again thank the RNA for their cooperation on this matter.

It was obviously a difficult decision to cancel this year's Ekka. I know it is one of the key events in my electorate, and I have been going since I was a little girl. I will miss the Ekka this year, but the long weekend is a great opportunity to get out and support our wonderful tourism industry and small businesses. We might not be able to get our show bags this year, but we can pack our travel bags and support Queensland tourism. We look forward to the Ekka show holiday returning on People's Day in 2021.

I am delighted to report that a number of other councils across the state have taken up the government's invitation to also move their show holiday to the new public holiday of 14 August. I thank all councils for considering this invitation. As a result, under the amendments that have been circulated, the new public holiday of 14 August will also apply to the following council areas that have made the request: Gold Coast, Logan, Rockhampton, Livingstone, Mackay, Charters Towers, Burdekin, Weipa, Cloncurry, and Whitsunday for the Bowen area only.

I turn now to public sector wage arrangements. I will also move amendments to the Industrial Relations Act 2016 to establish new wage arrangements for the Queensland public sector that reflect and respond to the unforeseen economic circumstances we find ourselves in with COVID-19. At the beginning of 2020 none of us could have envisaged the catastrophic global crisis, from both a health and an economic perspective, that we have faced due to COVID-19. Thankfully, through Queenslanders working together, we have flattened the curve. However, as we know, many of those same measures required to flatten the curve and protect the health of Queenslanders have had a significant flow-on economic impact on Queensland workers, the Queensland economy and the state's fiscal position and will continue to do so. They are the facts, and that is why the Premier made an announcement in April regarding public sector bargaining and wage increases being placed on hold.

The Premier's announcement recognised that we all are in this together. We recognise and deeply appreciate the hard work and dedication of Queensland's public sector workers, especially those working on the front line to fight against COVID-19. At the same time, with over 100,000 Queenslanders finding themselves out of work and many more on reduced hours and incomes, we need to look at how public sector finances are best directed to supporting jobs and driving our economic recovery as soon as possible. We have since taken the time necessary to sort through the detail of how this would work in a fair, consistent and equitable manner. As a result, we have arrived at a set of balanced public sector wage arrangements during a world health pandemic declared public health emergency that will form part of a new temporary, time limited chapter in the Industrial Relations Act 2016 to expire on 30 September 2020 and, we hope, never to be repeated again.

The key features of the new wage arrangements contained in the amendments include: clearly stating our longstanding commitment to maximising job security for Queensland public sector workers, so important during these unprecedented times; honouring current agreements and settling outstanding agreements; amending the timing of wage increases in all agreements to incorporate a zero per cent wage increase, or wage freeze, for the 2020-21 financial year, with a deferred wage adjustment to be inserted six months after the first payment made after the 2020-21 financial year; extending the nominal expiry date of agreements where required to facilitate these new wage arrangements; and allowing a streamlined process to certify new agreements not yet finalised due to COVID-19 delays in line with state public sector wages policy to bring about equity for all public sector workers.

All other matters contained in existing or new agreements such as reclassifications and new allowances will be honoured, and the legislation will not impact on the state wage case and wage increases for low-paid workers who rely on the award. This is a matter for the QIRC. To be clear, the amendments apply only to Queensland's public sector. There will be no impact on local government or other state system workers. We are not asking the public sector to do anything that members of parliament, ministerial staff and senior public servants will not also be asked to do. The government will amend remuneration policy to reflect our expectation that during 2020-21 there will be no performance based payments to the CEOs and senior executives in the government owned water, energy and transport corporations and statutory authorities.

These temporary amendments to the IR Act are expected to result in a saving of around half a billion dollars in 2020-21. This is money that can then be redirected into supporting jobs across the economy and into boosting our unite and recover efforts at a time when it is needed most. It is imperative that we get the economy recovered as a matter of priority.

I will also move amendments to the Work Health and Safety Act 2011 to improve the operation of right-of-entry arrangements under the act and to increase penalties for prohibited conduct. Currently under the act, section 141A allows Workplace Health and Safety Queensland inspectors to assist in resolving disputes between union and employer parties about entry to a workplace, including by issuing a direction in writing as to whether or not a right to enter a workplace exists. Section 142A provides for the review of inspectors' decisions under 141A by the Queensland Industrial Relations Commission.

Since the commencement of these provisions in 2017, the experience is that they have not been used very often. Where they have been used, the inspectors are tied up in determining complicated entry issues, taking away their focus from compliance and framework. Based on this experience, a more efficient use of resources would be achieved by revoking sections 141A and 142A, removing inspectors from this role, and parties instead being directed to the Queensland Industrial Relations Commission. We want our inspectors to be focused on enforcement and compliance—a point which was reinforced by the recent coronial findings of the Dreamworld inquest and the recent safety issues caused through COVID-19—and that is what these amendments are about.

To ensure that matters are dealt with promptly, my department is currently finalising new processes with the QIRC to ensure that right-of-entry disputes are dealt with expeditiously by the tribunal. We are working on a period of no longer than 48 hours. My department will also work with stakeholders to prepare guidance that provides certainty around how the inspectorate will deal with disputes and provide information to parties on options for issue resolution.

The amendments will also increase the penalties for breaches concerning workplace entry. These are current penalties in the act that provide important protections against behaviour that hinders, obstructs or delays the critical work of inspectors and permit holders in ensuring safe workplaces. During COVID-19, it is imperative that this not be done. Protections also exist to ensure others in the workplace are not hindered, obstructed or delayed, or work is not disrupted by workplace health and safety permit holders. The amendments will increase the relevant penalties from up to 100 penalty units to up to 500 penalty units, and in the case of the offence of assault, threaten or intimidate inspectors from up to 500 penalty units to up to 1,000 penalty units. These increased penalties will provide an important deterrent measure and send a clear message that this behaviour will not be tolerated. As honourable members will note, the amendments circulated deal with several other matters, and I will leave it to those ministers to deal with these matters during the debate on this bill.

This 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. The Palaszczuk government went to the 2017 election with a commitment to investigate a portable long service leave scheme for the community services sector, and we are delivering on that commitment in this term of government. We believe that the time has well and truly come for professional and dedicated community services workers in Queensland who look after some of the most vulnerable members of our community to have fair access to long service leave in recognition of their service across the sector. I commend the bill to the House.