




Speech By
Sandy Bolton

MEMBER FOR NOOSA

Record of Proceedings, 27 October 2022

INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL

 **Ms BOLTON** (Noosa—Ind) (5.58 pm): The Industrial Relations Act 2016 provides a framework for industrial relations for Queenslanders. The act also regulates the state public sector, local government employees and the employees of several statutory authorities. The proposed Industrial Relations and Other Legislation Amendment Bill 2022 amends the Industrial Relations Act to strengthen protections against workplace sexual harassment—which, of course, is supported; empower the Queensland Industrial Relations Commission to set minimum standards for independent courier drivers—and we have heard the issues around that; and to change the system for registering industrial organisations in such a way as has been highlighted, which has been very contentious. Listening to both sides of the House and what has been going on has also added to some confusion, but I will get on to that later.

While the Education, Employment and Training Committee is broadly supportive of the bill and believes it will help to achieve the primary objectives of the IR Act, it did identify particular issues where there were opposing views during the inquiry process. These included the issues of representation by registered organisations and minimum standards for independent courier drivers, however, made no recommendations on them.

Submissions against components of the bill come from a recently established group of organisations collectively known as red unions. One example is the Nurses' Professional Association of Queensland and, again, I send my gratitude for the work that all of our health frontliners do. As we have heard, these industrial organisations are not constituted the same as usual trade unions, which are registered under the Industrial Relations Act. They operate and are organised as incorporated associations, in a similar way that many charities and local community groups are, and have relied on a broad interpretation of the term 'association' under the Industrial Relations Act to do their work of representation. This has raised issues around their standing at the Industrial Relations Commission and other matters related to the industrial relations legislation. However, rather than remedying that, this legislation has the effect of abolishing those organisations.

First, the bill effectively requires industrial organisations to be registered under the Industrial Relations Act. As the explanatory notes explain, it does this by amending the terminology used in the IR Act to provide clarity that the rights and protections conferred by the Industrial Relations Act are limited to employee and employer organisations that are registered.

Second, the operation of the Industrial Relations Act does not allow any more organisations to be registered if there is already a union for that industry. That is key here. As the Red Union submission states—

The current registration conditions effectively have the impact of creating "union monopolies" where members of a particular industry are only able to be officially represented by the organisation that is already registered ...

After listening to some of the debate last night, I went to verify that. I found a section in the Industrial Relations Act 2016 at chapter 12 under the heading, 'Industrial organisations and associated entities', which has not been amended in this bill. It states—

608 Additional criteria for registration as employee organisation

(1) If the application is for registration as an employee organisation, the commission must also be satisfied of the following—

...

(b) either—

- (i) there is no organisation to which the applicant's members might belong; or
- (ii) there is no organisation to which the members could conveniently belong that would effectively represent them in a way consistent with the objects of this Act

From that I translated that a new employee organisation could not be registered if there is an existing one in the same industry.

Third, the chief executive of the register of incorporated associations must cancel the registration of an incorporated association if the registrar of industrial organisations gives notice of an adverse order or industrial penalty against the organisation. As the explanatory notes state, this will ensure there are significant consequences for incorporated associations that falsely present themselves as having a right to represent the industrial interests of employees or employers under the IR Act.

In summary, ultimately all of this will have the effect of seeing these new organisations unable to operate while leaving traditional trade unions intact. This will remove choice for Queensland workers, limit competition and, overall, weaken rights for workers through that lack of choice. Unions should not be monolithic, as with any form of representation. You would not want just one political party as your only choice. There has to be room for diversity, different viewpoints and offerings, as we expect in just about every realm. As stated by the Retail and Fast Food Workers Union in their submission to the committee—

There is a fundamental failure to recognise responsible modern representation of workers starts with that worker's right to freedom of association and choice of representation.

It is that simple.

From our understanding, having multiple representative organisations in the enterprise bargaining process in the same industry does not weaken the efforts on behalf of workers. After perusing the submissions, I have been unable to find any rationale that clearly articulates negative effects to workers by having choice. I acknowledge that there have been concerns raised regarding capabilities, legalities and the capacity of those new organisations. However, ultimately, should their members have not received the representation they expect then they would take their membership elsewhere.

Despite the explanatory notes stating that there were literally no alternatives to achieving the policy objective, the bill could have provided a pathway to registration for these new organisations to address any concerns, such as amending the section I referred to. Again, I will say it: diversity of viewpoints is important in a modern progressive Queensland, as is freedom of choice. This component of the bill progresses neither and, even though I am appreciative of the efforts of all as well as some of the debate, I will not be supporting the bill.