Speech By

# Stephen Andrew

## MEMBER FOR MIRANI

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## INDUSTRIAL RELATIONS AND OTHER LEGISLATION AMENDMENT BILL

**Mr ANDREW** (Mirani—PHON) (7.48 pm): I rise to speak on the Industrial Relations and Other Legislation Amendment Bill 2022. According to the bill's explanatory notes, clauses 29 to 64 of the bill have been introduced to 'provide greater clarity about the rights and responsibilities of employee and employer organisations, including ineligible or unregulated entities'. It is made clear that so-called ineligible entities cannot lawfully represent their members' industrial interests under the IR Act and that civil penalties can be ordered against any entity which attempts to do so. Under the bill's provisions, it will become virtually impossible for the state's new independent unions to represent and advocate for their members. The bill states clearly that these so-called ineligible entities cannot lawfully represent their members' industrial interests under the act. Civil penalties will be imposed on any entity deemed to have misrepresented its registration status or ability to lawfully act on behalf of a person's industrial interests under the IR Act.

The bill also makes the following changes: section 201 of the IR Act to be amended to clarify that a proposed agreement or bargaining instrument must include information setting out how equal remuneration for work of equal or comparable value will be achieved in practice; and section 290 of the IR Act to be amended—meaning of 'engages in industrial activity'—to replace the term 'industrial association' with 'industrial organisation'.

Currently, the use of the term 'union' is not restricted by any law in Australia. That is because Australia has ratified a number of international conventions which guarantee the right of every worker to form or join their own union. Clearly, the Queensland government is trying to get around those international conventions by pretending that workers will still be free to choose to join an ineligible entity if they want to. They just will not be allowed to represent them. This is another of the government's Clayton's choices when it comes to people's human and civil rights under international law. Not only does the bill create new barriers preventing independent employee associations from representing their members; it also sets a framework for punishing them.

Under provisions in the legislation, new powers are granted to the Queensland Industrial Relations Commission which enable it to issue orders against ineligible entities and hit them with heavy fines and sanctions. If passed, the bill will end the right to freedom of association in Queensland. The real motive for this bill is the tens of thousands of workers who have abandoned the establishment unions in droves in the past three years to join organisations like the Red Union and other worker groups like it.

These new unions were the only ones prepared to help those workers dealing with unfair dismissal and pay negotiations involved in the loss of their careers and livelihoods due to mandates. These unions were the only ones prepared to provide these workers with the critical assistance they needed at an incredibly traumatic time. They provided them with professional indemnity insurance, advice on how to set up public fundraising campaigns and helped them join forces with other workers to launch court actions where appropriate.

These unions have a rapidly growing membership of paid-up new members, mostly from sectors once considered the lifeblood of the union movement, including nurses, teachers, police and transport workers. They are apolitical organisations which do not sit on government round tables, do not make financial contributions to political parties and do not engage in political lobbying. They therefore have none of the conflict issues of most of the older establishment unions. Even their dues are half what the old unions charge their members, all of which makes them a genuine competitor for the establishment unions which have ruled the roost in Australia for far too long. There needs to be opportunity and options. Clearly, they no longer exist to serve the interests of their members or workers but those of the power elites and global capital.

Today I talked to one guy out the front who had no politician approach him. When I spoke to Mick he said, 'There is no-one up there who represents us anymore, Steve.' I will not use his vernacular and say what he actually said. Basically, he said that these people do not work anymore and do not understand what we do. Not all members in the Labor Party are like that, but this is how they feel. It is so sad to see that.

This bill also introduces a new chapter 10A into the IR Act which empowers the QIRC to, on application or its own initiative, determine the minimum remuneration and working conditions for independent couriers. It should be noted from the outset that Australia's road transport industry is already one of the most heavily regulated sectors within the economy. It is also an industry which has strategic importance for our economy and which played a vital role during the recent pandemic. It also transports our food and everything up and down the coast from the country to the city, as we all know.

Many sectors within the economy rely heavily on the road transport industry and the services its operators provide, including mining and agriculture. The sector also provides its workers with a flexibility that is ideally suited to the many people who prefer to work around other commitments including studies, second jobs, family commitments and recreational activities. Many restaurants would not have survived without the on-demand platform for delivery services, and thousands of people would have had to be stood down instead of continuing to earn a wage. Under section 406B(1) of the bill, the definition of an independent courier goes far beyond any reasonable conception of an independent courier driver. It defines an independent courier in a way that is clearly intended to be broad enough to cover a range of independent contractors who perform work via gig platforms.

Overall, the bill takes an inappropriate top-down approach in determining in a heavy-handed fashion how an independent operator must run their business—a clear case of government intrusion and overreach. It is also anti-competitive and inconsistent with many rights, including the right to freedom of contract.

Proposed section 406F(2) completely disregards the needs of small business and the adverse impacts this bill's restrictive laws will have on business productivity, costs and red tape. This approach assumes that the working arrangements of platform workers are directly comparable to ordinary employees. It ignores the distinct nature of platform work and fails to provide minimum conditions that are suitably adapted to such work. It also reflects the approach in chapter 6 of the New South Wales act, which I understand this legislation was modelled on. The New South Wales system is deeply unpopular and is plagued with high rates of noncompliance. It therefore seems counterproductive for the government to be seeking to replicate a similar system here in Queensland.

I also strongly oppose the bill's conferral of retrospective powers on the QIRC, including around contract determinations. This is contrary to all principles of good governance and the bill should be amended to ensure such orders can only operate prospectively. The federal government has indicated that it intends to introduce its own regulations in the near future. As such, the bill should not be proceeded with given the extreme likelihood that any federal legislation will render many of the state provisions redundant.

The alternative is a complex range of regulations, with state-specific owner-driver laws and regulations, plus the additional overlay of the federal IC act and the Fair Work Act when amended. Chapter 10A should therefore be removed on the basis that minimum standards for independent courier drivers and other gig economy workers should be implemented at the federal level.

This government loves to talk about how important small business is to the economy and how it must be supported, yet it continues to pass law after law hell-bent on destroying it. Last month, Australia's workplace relations minister Tony Burke called gig workers a cancer on the economy. Let's just be clear about these so-called protections for workers in the gig economy. Gig workers are, by strict definition, self-employed workers. That means they are small business owners. The government wants everyone to believe that this bill is it taking on big business giants like Uber and Amazon. It is not; it is an attack on the millions of hardworking, self-employed Australians whose only crime has been to pursue a dream of becoming their own boss.

While this bill focuses on the road transport sector, its provisions are perfectly framed for rapid expansion across many other areas of small business, including cafe owners, hairdressers, small contractors, independent bus drivers, courier drivers, truckies, importers, cleaners, nannies, plumbers, electricians and numerous other self-employed blue collar workers. That is who minister Burke and others really consider a cancer on our economy—small, independent operators. Why? Because they are the only sector big government does not yet have control over.

Interestingly, it is also the sector where cash is still the preferred way of doing business. It is the same sector that ATO bureaucrats have waged an almost non-stop war of attrition against over the past decade. Small business, contractors, sole traders and the self-employed are one of the last bastions of freedom in our economy.

I also concur with the Australian Christian Lobby and am strongly opposed to amendments that remove gendered expression from the Industrial Relations Act; specifically, referring to the proposed amendments removing the terms ‘maternity’ and ‘she’ and replacing them with ‘birth related’ and ‘the employee’. This language is dehumanising and an affront to Queensland women. Maternity leave is a right provided to women and a declaration of the significance of mothers in a healthy society. Bills such as this one are a direct threat to that. That is why I do not support the bill.