Speech by

Jann Stuckey

MEMBER FOR CURRUMBIN

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OCCUPATIONAL LICENSING NATIONAL LAW (QUEENSLAND) BILL

Mrs STUCKEY (Currumbin—LNP) (5.30 pm): I rise to speak in the debate on the Occupational Licensing National Law (Queensland) Bill 2010, which was introduced into the House on 6 October by the honourable the Treasurer and Minister for Employment and Economic Development. The purpose of this bill is to apply the occupational licensing national law set out in the schedule to the Occupational Licensing National Law Act 2010 of Victoria—known as the law—as a law of Queensland. The law is the legislative framework for a national occupational licensing system, the NLS. As honourable members have heard from my learned colleague the shadow Treasurer and honourable member for Clayfield in his well-researched speech, the LNP is supporting this bill but he highlighted our reservations about the future implementation and also the need for a regulation review.

States and territories have historically been charged with developing their own licensing systems, with variations and irregularities causing frustration and duplication between jurisdictions. At present, mutual recognition allows licensees who wish to move between states to apply to be registered in a second jurisdiction without further assessment of their skills. Despite this, a number of impositions still exist, including meeting different non-skills requirements, additional fees and application processes. This is particularly onerous for workers in cross-border areas, such as my own electorate of Currumbin, which straddles the state boundary with New South Wales. Recognising these difficulties, the Council of Australian Governments—COAG—entered into the National Partnership Agreement to Deliver a Seamless National Economy in July 2008 and as such developed the NLS to remove inconsistencies across jurisdictional borders and allow for a more mobile workforce.

Essentially, the national licensing scheme will allow for current holders of state and territory licences to be automatically recognised under the new licence system and a public national register of licensees to be established. It was agreed that the Commonwealth has no legislative role in the establishment of the new system. Subsequently, in April 2009, COAG agreed to the intergovernmental agreement for a national licensing system for specified occupations—known as the COAG agreement—to establish a licensing body to develop policy and administer the NLS. Under this COAG agreement, the NLS will initially apply to seven occupational areas. These are air conditioning and refrigeration, electrical, plumbing and gasfitting, property related occupations, building and building related occupations, land transport, and maritime.

The law has been designed to allow for additional occupations to be added over time. This would require amendments to legislation as this transpires. Phase 1 is expected to commence from 1 July 2012 and will cover the first occupations I just listed. Prior to implementation, each state will be required to enact amendments to its jurisdictional legislation applying to the relevant occupational areas to allow the facilitation of the national law.

Living in and representing the southern most coastal cross-border electorate in Queensland, I can attest to the fact that the provisions of this bill are very pertinent to the constituents of Currumbin. Indeed, the topic of licensing is also particularly relevant to my role as shadow minister for public works and ICT, a portfolio with responsibility for a range of licensing concerns for various industries across this great state. Currently, differences in licensing requirements between states—including classification, eligibility, duration and fee structures—can cause prohibitive costs to individuals and businesses, wasting both time and

money. A nationally consistent framework is welcomed to iron out these inconsistencies and promote greater business activity among states, particularly in cross-border areas. Creation of a truly seamless community between Queensland and New South Wales becomes a step closer to reality with the passage of this bill.

Tom Senti, from the Tweed Economic Development Corporation, informed me of the following statistics: the Tweed—my geographic neighbour—currently has one of the lowest work participation rates in Australia at 42 per cent; New South Wales, in which it sits, has a work population rate of 62 per cent; Queensland sits at 62.3 per cent; and Australia generally sits at 65 per cent. This equates to some 32,000 people in the Tweed—self-employed and employees as full-time equivalents—earning an income and living in the Tweed. However, the point here is that more than 12,000 of these 32,000 leave the Tweed on a daily basis to work in other places, mostly in South-East Queensland, which clearly demonstrates once again the interconnectivity of the two cross-border economies.

Other research by TEDC over the last 10 years—including the joint Gold Coast City Council and TEDC Seamless Borders Project and the Tweed and Gold Coast Aviation Transport Hub Project—confirms that the two economies of South-East Queensland and the Tweed are inextricably linked and to a very large extent are interdependent. The Tweed as a population-driven growth area and the occupational areas listed under the COAG agreement are all part of the services and trades sector which cross the border on a daily basis. As such, the issue of compliance is seen as a major impediment to the growth of both regional economies. Recognition of interstate licences can only assist employment, generating growth of both economies. I thank Tom Senti for this information and wish him a speedy recovery from his recent operation. It would, however, be remiss of me not to mention the impact of dual time zones, which places further imposts on the daily activities of a large number of people who live, work and play in our region.

Robert Wright, a local builder who works the border region, is favourable to reform but says it needs to go further. This builder is of the opinion that there is a need for uniform regulations across the nation: 'After all,' he says, 'we are one country.' Borders are not physical, touchable structures in our modern world and mean nothing to the people conducting business day to day, except for varying standards and regulations which impede and complicate business transactions. In terms of industry standards, Robert questioned whether there should be building to one standard throughout Australia. Different workplace health and safety standards exist between the states. Essentially they are the same but with small variations, and it is frustrating, not to mention time consuming, getting certificates for both Queensland and New South Wales.

Robert said that news that a national standard for workplace health and safety is also going to be implemented in the next couple of years is welcome. However, reapplying for the national certificate will also be a time-consuming exercise. This is the kind of superfluous and repetitive red tape that hits small businesses the hardest. The shadow Treasurer made a comment about the form these qualifications will take, with concerns that as standards elsewhere vary it may open the door for standards to drop. Many tradespeople may qualify with lower standards and skills, and that would be to the detriment of the consumer.

I consulted with the Master Builders Association here in Queensland, which supports a comprehensive licensing system that is focused on the protection of consumers. It believes that protecting the interests of consumers is best achieved by, firstly, maintaining and improving building standards by ensuring that accredited training is a condition of licensing and, secondly, ensuring the financial viability of building contractors by requiring all contractors to meet regular and ongoing financial tests as a condition of licensing. These objectives, they say, will be achieved—or not—through the regulations.

The national licensing scheme is anticipated to function under a delegated agency model, meaning that the licensing authority created by this law will delegate its regulatory licensing functions to existing regulatory authorities. Notably, the law does not permit the delegation of the licensing authority's function for policy development.

According to the Treasurer's second reading speech, this legislation will not involve a referral of powers to the Commonwealth government. This bill, however, is designed as skeletal legislation, creating a legislative superstructure and leaving significant elements of the licensing system to be dealt with by regulations that are still to come. Honourable members have heard the concerns of the shadow Treasurer in relation to these coming regulations.

As the regulations associated with the first phase of this bill will not be enacted until 2012, what we have before us will need to be the subject of further legislation before it is fully implemented. Interim advisory committees—IACs—are to be established for each first-phase occupation to provide advice on licensing policy for the development of national regulations. The IACs will consist of union, employer, regulator and consumer representatives.

The cost to the Queensland government as a result of this legislation will be twofold. Direct funding to the tune of $1.4 million between 2009 and 2011 has been contributed to the establishment of the

licensing authority. Additionally, there will be an indirect financial consequence to the state in the form of lost revenue from interstate licence fees as the requirement to obtain multiple licences across jurisdictions is being eradicated by the national scheme. It would be interesting to learn just how much revenue is estimated to be lost once this legislation is implemented. I would ask the Treasurer if he has those figures to share them with the House in his reply.

I would like to raise a couple of other issues arising from the provisions in the bill. Collection of criminal history information presents some privacy issues, and the collection and publication of personal information also raises concerns. In its submission to the Victorian government on the initial national law bill, the Office of the Victorian Privacy Commissioner highlighted the lack of voluntary participation in the scheme, cemented by the penalties relating to the offence of not being licensed and the mandatory disclosure of personal information of licensees raising significant privacy challenges. The Deputy Privacy Commissioner had this to say on the topic of national registers—

The proposed national registers will collectively contain thousands of records relating to licensees. All matters in relation to how information on the registers will be collected, recorded and kept and inspection, access and publication of public registers has been left to national regulation. This means it is currently not possible to analyse the privacy implications of the national register, and protection will be dependent on the Ministerial Council.

Not surprisingly, the LNP also shares this sentiment. An absence of analysis of the benefits that this scheme may bring to national and state economies raises a certain degree of uncertainty as to whether this scheme really will achieve positive results in the long term. It is to be hoped that it will.

Also of concern is the limited parliamentary oversight involved with this national scheme. National regulations, on which the majority of this scheme will be reliant, are to be made by the ministerial council, at this stage being the Ministerial Council for Federal Financial Relations. The process by which regulations are proposed to be made appears to bypass significant parliamentary scrutiny. To ensure legislative consistency, any disallowance of a regulation by a jurisdiction can only be approved if the majority of participating jurisdictions have disallowed the regulation. Further concerns about abrogating the rights of parliaments will undoubtedly arise once the system begins. I note at this point that Western Australia is the only state that has indicated that it will not enact the national legislation. However, WA has indicated that it will draft legislation that mirrors the law.

Under the new national law, an individual carrying out work without a licence or relevant exemption will face a $50,000 fine for a first or second offence or $50,000, 12 months imprisonment or both for a third or subsequent offence. Advertising to perform work without a licence or exemption will incur the same penalty, as will the offence of holding out an unlicensed person as being licensed or a licensee allowing the use of their licence by another person.

The provision of harsh penalties is particularly important when considering the nature of the specified occupations. For example, electrical and building work that is repeatedly carried out by an unlicensed individual can produce a serious and even deadly risk to public safety. Penalties for offences prescribed by this bill are harsher than some existing penalties. Under section 42 of the Queensland Building Services Authority Act 1991, unlicensed contracting currently attracts a maximum fine of $25,000, or 250 penalty units. Doubling of penalties is certainly an effective means of stamping out the frequency of illegal business practices. However, there are concerns as to how this new national law will be able to monitor industry to detect these offences when our state based agencies, which were supposedly designed to perform this function, are failing to do so. That is, of course, unless dishonest and unprincipled practices or bad press puts pressure on this government to take action.

A number of the occupations encapsulated in this bill fall under the jurisdiction of the QBSA. At present, this statutory body is undergoing a review being conducted for the government by KPMG. The LNP has put out a discussion paper that encourages industry stakeholders and consumers to have their say about aspects of the BSA that work well and also those that they think require improvement or change.

The shadow Treasurer highlighted the need for a regulation review. In some ways, it could be said that the QBSA is a good example. A recent CMC report identified a raft of serious flaws with organisational and governance structures and made seven recommendations. Inadequate policies and lack of guidance led to oversight of serious breaches of the law and eroded the confidence of affected consumers in the BSA's ability to protect them. The CMC report into the Queensland BSA is largely an attempt to defend the current organisation by asserting that past problems have been fixed. Looking at the report in terms of governance, it is clear that the major problem was the failure of management to accept the responsibilities of their position. That situation is whitewashed in the report with its bureaucratic reference to all of the new practices that now are claimed to be in operation.

Management is required to manage and is expected to ensure that operational staff are trained, monitored and supervised on a continuous basis. The report confirms that management failed in all of these responsibilities. Neither they nor their staff were properly qualified in the accountancy skills required

to deal with the analysis of builders' financial status. The excuse given was that the salary classification for staff doing this work was too low to attract trained accountancy staff but that the GFC had made the position more attractive to accountants from the private sector. One would hope that any future regulations would not bow to this excuse.

We have been told that this is skeletal legislation and that the regulations are to follow. The episode under discussion relating to this CMC report reveals that the finance division was simply overloaded with unresolved cases and an inability to attract senior officers because it was not equipped to handle the job. So too many cases of financial uncertainty were allowed to go unresolved, leading to more and more complaints. Whether these recommendations have resolved the concerns remains a mystery.

Cases of licence lending in the building industry have left Queenslanders facing a significant financial burden. I was contacted recently by an individual who had seen the devastating effects that the inadequate policing of this practice has had on the public purse. Indeed, it is the QBSA that is left to foot the bill of outstanding payments to debtors when a building company goes into liquidation because of poor workmanship. It is the responsibility of the nominee of the company, being a licence holder, to ensure adequate supervision of work done under the name of the company. This individual put it down to a lack of monitoring controls by state and local governments that led to such practices occurring.

In closing, a national licensing system for specified occupations under the COAG agreement will enable the facilitation of workplace flexibility that has been denied to interstate workers until now. From stakeholder comments, there will undoubtedly be a lot of angst as the regulations are developed. This will involve industry, unions and regulators from across the country, each with a different view. Hopefully, the benefits from this uniformity will outweigh any anticipated problems.