

BUILDING INDUSTRY FAIRNESS (SECURITY OF PAYMENT) BILL

Resumed from 22 August (see p. 2286).

Second Reading

 **Hon. MC de BRENNI** (Springwood—ALP) (Minister for Housing and Public Works and Minister for Sport) (7.56 pm): I move—

That the bill be now read a second time.

I would like to start by thanking every Queenslanders who has been involved in getting this important issue to where it is at today. It has indeed been a very long time coming. Gary Veenstra from the Master Electricians tells the story that the prominent agenda item of the minutes of the very first meeting of the Master Electricians was how to get builders to pay them. That occurred 80 odd years ago. As a state we have seen such progress in our economy, in social and economic justice in the last 80 years, but this issue of security of payment for subcontractors has continued to remained a black spot. It is a drain on our economy and a stain on our social fabric. Over the last three years, because of changes that were made in this place, it has become a lot worse. There are those who say that this is the way that the industry has always been and there is no use trying to change it. I think that is beneath us as a state. We do not put things in the too-hard basket in Queensland. It is also just wrong. It is wrong to the families who have been torn apart, it is wrong to the people who have lost their businesses and their homes.

I have spoken before in this place about John Belden and Kylie McKilroy whose experience of losing hundreds of thousands of dollars worth of payments really drew this into sharp focus for me. It was through talking to John that this exercise became much less academic. The problem drew a very sharp focus. Since then people have come to me with so many similar stories. Last week at the Chatswood hotel I had a beer with a concreter in my electorate who had been duded \$126,000. In the end he did not even chase the payment. He knew that if he could get his matter to the stage where the builder was required to pay him there would be nothing left at the end in any case for him to chase. I have spoken to many people in these same hopeless situations. I have sat with people at the moment that they have realised that there is nothing worthwhile that they can do under the current rules to effectively chase payment.

Work hard, play by the rules and you will get ahead has always been the promise in this country. It is a shocking sight to see people realise that that promise is not real and the rules have been deliberately stacked against them. Fundamentally, the Building Industry Fairness (Security of Payment) Bill does two things. Firstly, it sets the country's most comprehensive framework for helping to ensure that people are paid on time, in full, every time. Secondly, it unblocks the grinding gears of small and medium business confidence in the industry in this state. It does so with one guiding principle and that is fairness. If you do the work you should get paid.

As I have heard over and over from subcontractors, this is the key to expanding and growing their small businesses. If people in the industry could guarantee that they get paid for the work currently on hand, they would create more jobs and take on more apprentices, getting more of our Queenslanders into their first job. However, as it sits, that money simply is not flowing because small businesses need an ever-increasing buffer to deal with the growing inevitability of not getting paid.

Before I get into the detail of the bill itself, there is something that I think is worth noting from the outset. I would say that nine out of ten people who talk to me about the importance of these reforms start the conversation with statements such as 'I'm definitely not a Labor person, but' or 'I've been Liberal all of my life'. Before those opposite trot out the old 'ACME industries puppet of the union movement' line, they should remember the following: the people that this bill is protecting are traditionally your people. They know when someone has turned their back on them and they know when the rules have been stacked against them.

This historic bill will see Queensland lead the nation on security of payments for subcontractors. It is the result of extensive consultation right across the industry. I thank the industry for that comprehensive engagement in the consultation process. I thank the council of people such as Les Williams and Juanita Gibson from the Subcontractors Alliance, Wayne Smith from the National Fire Industry Association, Gary Veenstra from the Master Electricians, Penny Cornah from the Master Plumbers Association, Graham McKrill from the Air Conditioning and Mechanical Contractors' Association and David Lingard from the Master Concreters Association, amongst many others. I really appreciated the opportunity that many of those groups afforded me to visit their members on

construction sites as we consulted on these issues right across the state. We may not have agreed on every single detail, but I found that engagement to have been conducted in the best of faith. I am sure that members will agree that it is always good to work with straight shooters who act with great civility. All involved in the process are a credit to trades and construction industry.

As a result of that consultation, we have a comprehensive package of reforms. I want to touch again on some of the major elements of the changes. The bill will establish, for the first time in this state, a framework for project bank accounts for both government and private sector building and construction projects. PBAs will initially apply to government building and construction projects valued between \$1 million and 10 million, excluding engineering projects, tendered from 1 January 2018. We are simplifying the claims process and we are making it easier for subcontractors to claim what they are rightly owed. The bill also establishes new penalties for people who fail to pay and for people who fail to honour an adjudication decision. Crucially, the bill includes strong action on the practice of phoenixing.

I now address the report of the Public Works and Utilities Committee into the bill. Firstly, I thank the committee members. They have been working tirelessly on a range of legislation, but I know that they gave these reforms particular attention. They have deliberated thoroughly and delivered a considered review of the bill. In particular, I acknowledged the chair of the committee, Mr Shane King, the member for Kallangur. I also thank the committee secretariat for their continued work in supporting the committee. My thanks again go to the industry stakeholders who made submissions to the committee's inquiry and participated in the hearings to express their thoughts, their views, their experiences, their concerns and, importantly, their overwhelming support for this bill.

I note that in its report the committee made seven recommendations, including, importantly, that the bill be passed. Recommendation 1 is that the bill be passed. I thank the committee for their support of this historic bill.

In recommendation 2, the committee asked that I consider ensuring a review of phase 1 of the project bank account provisions contained in the bill. I draw the House's attention to pages 4 and 5, elsewhere in the committee report, and particularly page 28, where the committee states—

As noted earlier in this report, the government intends to review phase 1 of the PBA (Government contracts) before commencing Phase 2 (proposed for 1 Jan 2019). The bill provides for commencement of chapter 9, part 1, division 2 (Extended application of PBAs to private and local government building contracts) by proclamation.

All through the committee report, one will see that officials of my Department of Housing and Public Works have very openly advised the committee that a review and evaluation process was an existing feature of the government's implementation plans. The officials spoke so confidently and in such detail, because this was a decision the government had taken many months ago. In fact, the minimum one-year gap between public sector implementation and private sector implementation was deliberately included in the legislation because this kind of evaluation is obviously a desirable thing when introducing new laws. I recognise the appetite that has been expressed by stakeholders to have great certainty that this review will indeed help. I can advise the House that it is indeed the government's policy.

In consideration in detail, I will move amendments that will establish a statutory requirement for an independent review of phase 1 of project bank accounts, commencing no later than September 2018. It is my intention that, when established, the review panel will be led by an eminent independent person who will be joined by up to three senior figures with relevant expertise. I will issue terms of reference that will require the review panel to consult with representative bodies. It will also be complemented by a reference group, which will be available to undertake detailed work with panel members. It is important that this review panel is properly equipped to perform its role. It is important to me and it is important to every subcontractor who has not been paid for the work they have done that these new laws work effectively to provide security of payment for subcontractors sector-wide. I will commit a minimum of \$500,000 to ensure that the panel has professional support and services are available to it.

In recommendation 3 of the report, the committee recommended that the appropriateness of the imprisonment penalties be reviewed. Under the bill the penalties have been based on a comparison with penalties in other Queensland acts and other jurisdictions. For example, the maximum penalty of 300 penalty units or two years imprisonment for withdrawing an amount from a project bank account other than for the purposes allowed under clause 31 of the bill is similar to a maximum penalty under the Agents Financial Administration Act 2014 of up to 200 penalty units or two years imprisonment for stealing or misappropriating trust money. Further, under clause 40 of the bill, the maximum penalty of 200 penalty units or one year's imprisonment for investing funds held in a project bank account in any