

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Greg Pearce.

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.15 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Industrial Relations Amendment (Dispute Orders) Bill 2012. This bill proposes to make amendments to the provisions in the Industrial Relations Act 1996 which deal with breaches of orders by the New South Wales Industrial Relations Commission prohibiting industrial action. These amendments have become necessary because some industrial organisations have chosen to ignore orders of the Industrial Relations Commission and have pressed ahead with industrial action in the face of direct orders from the Industrial Relations Commission to not do so. In short, the current provisions do not appear to be having a suitable deterrent effect. The purpose of this bill then is to strengthen the existing provisions in the Act in order to stamp out industrial action that has been prohibited by the Industrial Relations Commission.

The Hon. Catherine Cusack: Point of order. I am endeavouring to listen to a very fine speech but I am unable to hear because of the chatter that is going on.

DEPUTY-PRESIDENT (The Hon. Natasha Maclaren-Jones): Order! Members who wish to engage in private conversations will do so outside the Chamber. Members will allow the Minister to be heard in silence.

The Hon. GREG PEARCE: As I was saying before I was interrupted, the current provisions of the Act do not appear to be having a suitable deterrent effect. The purpose of this bill then is to strengthen the existing provisions in the Act in order to stamp out industrial action that has been prohibited by the Industrial Relations Commission. Part 2 of chapter 3 of the Act currently provides the New South Wales Industrial Relations Commission with the power to issue dispute orders to, amongst other things, order an organisation to cease or refrain from taking industrial action. The Act also provides a mechanism, at section 139, to deal with any contravention of such disputes orders, and it is on this section that these amendments primarily focus.

At the moment section 139 (4) sets out the maximum penalties for breaching a dispute order. For a first offence these are \$10,000 for the first day of contravention and \$5000 for each subsequent day of contravention. For a second or greater offence, the penalties are increased to \$20,000 for the first day and \$10,000 for each subsequent day. This bill proposes that these maximum penalties be significantly increased. For a first offence, it is proposed to increase the maximum penalty to 1000 penalty units or \$110,000 for the first day and 500 penalty units or currently \$55,000 for each subsequent day of contravention. For a second or greater offence, the penalty will be increased to \$220,000 for the first day and \$110,000 for each subsequent day. These are the maximum penalties, of course.

The purpose of doing that is to send a very clear and unambiguous message: that wilfully and flagrantly disregarding a dispute order made by the Industrial Relations Commission will not

be tolerated. We on this side support the work of the Industrial Relations Commission. Penalties of this magnitude already exist in Australian industrial relations jurisdictions. This bill will bring the penalties more into line with Queensland. Under the Queensland Industrial Relations Act 1999 there is a flat fine of \$100,000. The existing non-pecuniary sanctions currently available in section 139 (4)—cancelling enterprise agreements, suspending or modifying entitlements, and cancelling or suspending the registration of an organisation—are unchanged and will continue to be available.

The Hon. Walt Secord: Batten down the hatches, Greg.

The Hon. GREG PEARCE: I like to keep you busy, Walt. In addition, the bill proposes that costs orders will in future be able to be made—if the commission so decides—against an industrial organisation or employer breaching the terms of a dispute order. This will be done by removing the current bar to costs orders in actions of this kind at section 181 (3) of the Act. The existing bar to costs orders in relation to proceedings under division 2 of part 4 of chapter 5, Rules of industrial organisations, will remain unchanged. Finally, the bill establishes a new appeal right in relation to orders for a contravention of a dispute order made under section 139. If any of the applicants or respondents in the contravention matter take the view that the penalty order imposed by the Industrial Relations Commission is inadequate or excessive they may then appeal to a Full Bench of the Commission in Court Session in the first instance, and then to the New South Wales Court of Appeal. In this context, a penalty order may include both financial penalties imposed under section 139 (4), as well as some of the other available sanctions—that is, suspending or modifying entitlements, and cancelling or suspending the registration of an organisation. However, appeals to the Court of Appeal will be limited to matters that involve a question of law of general importance. Finally, I should point out that this amendment is not intended to have retrospective operation.

The Hon. Sophie Cotsis: Oh, gee you're kind!

The Hon. GREG PEARCE: Thank you. The Hon. Sophie Cotsis suggests that I am very kind and fair. To do otherwise would be unusual and controversial, and this might detract from the clear message we wish to send about the seriousness with which the Government views contravention of orders made by the Industrial Court. I commend the bill to the House.

Debate adjourned on motion by the Hon. Sophie Cotsis and set down as an order of the day for a future day.