

PAY-ROLL TAX ASSESSMENT AMENDMENT (EXEMPTION FOR TRAINEES) BILL 2018

Committee

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Sue Ellery (Minister for Education and Training) in charge of the bill.

Clause 5: Section 41D inserted —

Committee was interrupted after the amendment moved by Hon Rick Mazza had been partly considered.

Hon AARON STONEHOUSE: Before we broke I was trying to seek some clarification. An employee can be on a three-month term of probation and at the end of that three-month probationary period can be put on a training contract that would include an additional three-month probationary period; is that correct?

Hon SUE ELLERY: To get the exemption, the employee and the employer need to enter into a training contract before the end of the three months.

Hon AARON STONEHOUSE: I think that answers my follow-up question too. The employee can enter into the training contract after two months and 29 days and the employer would get the exemption. The employee would then be put on another three months of probation in that case.

Hon SUE ELLERY: Just to be clear, the second period of three months' probation is probation for the training contract. Within the first three months of the training contract, the employer may decide that the employee is not a suitable person for this training contract and may end that probation period. There is a process for doing that, and it happens.

Hon AARON STONEHOUSE: So long as the training contract is commenced within that three-month period they will get the exemption, but that would exclude an employee hired on a six-month probationary period if the training commenced after the three month cut-off for new employees under the act.

Hon SUE ELLERY: If a training contract is entered into after the first three months of the employee's period of employment, the training contract is valid and will stand, but the employer will not be entitled to the payroll exemption granted for the purposes of new employees or, I might add, any commonwealth incentives that apply to training arrangements, because we use the same definition.

Hon RICK MAZZA: I am still having some trouble with this. The employee is on an employment contract with a three-month or six-month probation period so they are not permanent yet. At that stage the employer is unsure about what level of training they should give them. Under this bill, they will have no choice, if they want the exemption, but to enter them into a training contract within the three months. The training contract itself might have a three-month probation period but that is separate from the employment contract. That is where I am having great difficulty understanding how this is fair on employers and, to a large degree, employees. The minister has said to me that one of the reasons is the definition and how it might affect other states, but this is not about the training; this is about the taxation on the employee themselves. We have different payroll tax assessment legislation around Australia. In fact, even the notes and handouts we were given in the briefings show the differences. Western Australia's exemption is generous compared with those of other states, which are more limited. The information sheet lists the following: Western Australia, \$80 million, or 2.4 per cent of payroll; New South Wales, \$85 million, or one per cent of payroll; Victoria, \$6 million, or 0.1 per cent of payroll; Queensland, \$36 million, or 0.9 per cent of payroll; South Australia, \$7 million, or 0.6 per cent of payroll; Tasmania, \$2 million, or 0.5 per cent of payroll; ACT, not applicable; and the Northern Territory, \$5 million, or 1.2 per cent of payroll. There are differences around Australia with this. Can the minister explain to me what catastrophic occurrences might happen, which I think is the term the minister used when Hon Dr Steve Thomas asked the question, if this state—we always go on about the sovereignty of the state—was to put the amended definition that an employee whose probation was up would then have three months to enter into the training contract?

Hon SUE ELLERY: If I take the member back to look at clause 5 of the bill before us, the member is quite right to say that this bill seeks to amend the Pay-roll Tax Assessment Act, but it does so in clause 5 with reference to another act, the Vocational Education and Training Act 1996. The two are inextricably linked. Although the member says that we should be able to change our own definitions of how we apply payroll tax, in fact, the bill before us will change the way we deal with exemptions under the payroll tax act with specific reference to the training provisions set out in the Vocational Education and Training Act 1996. That act links and joins us to all the training regimes in place across Australia and, indeed, links employers to the entitlements that the commonwealth provides for training incentives. By undoing the definition of "new employee", we would be undoing that nexus with the VET act and the commonwealth incentives. In addition, I am also reminded that we would be undoing all the provisions set out in the Vocational Education and Training (General) Regulations 2009, which link us and use the same definitions used across Australia. They are the technical reasons that the amendment

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the member proposes would create chaos. In addition, there are reasons not linked to the technical connections between the two pieces of legislation here and the arrangements in place nationally. Industry has made it perfectly clear that it wants the same arrangements in place across Australia because companies that operate across jurisdictions—not even companies that operate nationally, but that operate between two states—do not want to have to deal with different sets of regulations. They are the two sets of reasons. Firstly, we are dealing with amending our payroll tax provisions with specific reference to the definitions in a set of vocational arrangements in an act and a set of regulations. Secondly, industry has said it wants consistent applications and does not want to be operating under different regimes in different jurisdictions.

Progress reported and leave granted to sit again, pursuant to standing orders.