

WORKFORCE REFORM BILL 2013

Consideration in Detail

Resumed from 26 November.

Clause 8: Act amended —

Debate was adjourned after clause 7 had been agreed to.

Mr P. PAPALIA: Last night, when the Premier guillotined the debate for the third time—I think, I had asked quite a reasonable question about clause 5; that was the first opportunity to discuss involuntary redundancy. It is a most controversial component of the bill. It was extensively discussed by our members during the second reading debate, and only briefly by the Premier in his response to our second reading debate. On a number of occasions the Premier said that the involuntary redundancy component of the bill would apply to only 200 individuals at the most. I am intent on seeking some more detail of where that figure came from, what research has been conducted to identify individuals who might be subject to an involuntary redundancy, which public sector entities they were located in, and what other efforts have been made by the Premier to identify those levels. The reason is that not only is this controversial, but also the Premier's claim that it applies to only 200 individuals at the most completely contradicts his Treasurer's rhetoric on this workforce reform proposal. On a number of occasions he indicated that the single biggest challenge to the opposition with regard to this bill was the involuntary redundancy powers within it. He claimed publically in the media and in this place on a number of occasions that that would be the big test of the opposition —

Point of Order

Mr J.H.D. DAY: We are on clause 8, which simply states the section of the act that is being amended by this part, so I suggest that we talk specifically about that. It is very hard to say anything that will add to the debate on that. I suggest that we deal with this clause because the issues that the member has raised are probably more appropriately dealt with under clause 9.

Mr P. PAPALIA: The reason I began speaking in this fashion is that at the time of the guillotine last night, when the debate was concluded across the floor, the Premier indicated that the appropriate time to discuss this matter was in part 3—this is part 3. Having prevented me from discussing the matter in the first available clause referring to involuntary redundancy, which was clause 5, I then took the opportunity to take the advice of the Premier and commenced discussing the matter at part 3. I understand what the Leader of the House is saying, and I concede that part of what he is saying is correct, but I am taking my advice from what the Premier said last night.

Mr J.H.D. DAY: Take a bit of advice from me as well and discuss it at clause 9.

Mr P. PAPALIA: Clause 9?

The DEPUTY SPEAKER: We do not need debate between the two of you.

Mr P. PAPALIA: I will sit down, let clause 8 go and discuss it in clause 9.

The DEPUTY SPEAKER: Thank you; I think that is the way forward.

Debate Resumed

Mr W.J. JOHNSTON: Premier, I want to know how many of the 138 863 employees identified in the Public Sector Commission's "State of the Sector Report 2013" will be covered by the provisions of part 3.

Question to be Put

Mr J.H.D. DAY: I move —

That the question be now put.

Division

Question put and a division taken, the Deputy Speaker casting her vote with the ayes, with the following result —

Extract from *Hansard*
[ASSEMBLY — Wednesday, 27 November 2013]
p6716a-6724a

Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr C.D. Hatton	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Mr A.P. Jacob	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Dr G.G. Jacobs	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.F. Johnson	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr R.S. Love	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic (<i>Teller</i>)

Noes (16)

Dr A.D. Buti	Mr M. McGowan	Mr J.R. Quigley	Mr C.J. Tallentire
Mr R.H. Cook	Ms S.F. McGurk	Ms M.M. Quirk	Mr P.B. Watson
Mr W.J. Johnston	Mr M.P. Murray	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr D.J. Kelly	Mr P. Papalia	Ms R. Saffioti	Mr D.A. Templeman (<i>Teller</i>)

Pairs

Mr S.K. L'Estrange	Mr P.C. Tinley
Mr J. Norberger	Ms L.L. Baker
Mr T.R. Buswell	Mr F.M. Logan
Mr M.J. Cowper	Ms J.M. Freeman
Mr W.R. Marmion	Ms J. Farrer

Question thus passed.

Consideration in Detail Resumed

The DEPUTY SPEAKER: The question is that clause 8 do stand as printed.

Division

Clause put and a division taken, the Deputy Speaker casting her vote with the ayes, with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr C.D. Hatton	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Mr A.P. Jacob	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Dr G.G. Jacobs	Mr D.C. Nalder
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Mr M.J. Cowper	Ms J. Farrer

Clause thus passed.

Clause 9: Section 22A amended —

Mr P. PAPALIA: I continue what I was saying before. Part of the reason for serious concern about the figure of 100 to 200 at the most is the complete disparity between that figure and the Treasurer's suggestion that we are talking about large numbers and that the involuntary redundancy provision in the bill is the driver of workforce reform in this state and the driver for a lot of savings. To illustrate that, I refer the Premier to *Hansard* of 14 August, when the shadow Treasurer was seeking to elicit from the Treasurer some detail of his fiscal action plan—the much-vaunted fiscal action plan that was difficult to tie down. The shadow Treasurer asked about the fiscal action plan. In the course of replying the Treasurer said —

I again stress that \$6.8 billion —

Extract from Hansard

[ASSEMBLY — Wednesday, 27 November 2013]

p6716a-6724a

Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

When the Treasurer refers to \$6.8 billion, that is the difference between what state debt would have been had the fiscal action plan not been implemented and what it would be in the event it was implemented.

I again stress that \$6.8 billion is a lot of money, but the important point about the \$6.8 billion and the important reason to meet with the ratings agency in Sydney is that the single biggest driver of the savings embedded in the fiscal action plan is fundamental reform of the public service and the way that we employ staff in the public service in Western Australia.

The shadow Treasurer interjected, and said —

What have you been doing for the last five years? You've done nothing on that.

The DEPUTY SPEAKER: I ask that the member for Warnbro direct his question to the clause, which is clause 9.

Mr P. PAPALIA: I am quoting. I am concerned about the disparity between the Premier's claim that this applies to 100 to 200 people only and the Treasurer's public statements and statements in this place that involuntary redundancy is the single biggest driver. I am about to illustrate that with a direct quote, but I have to put that in context.

The DEPUTY SPEAKER: Thank you, member for Warnbro.

Mr P. PAPALIA: The Treasurer then said —

Workforce reform is the single biggest driver of the savings in the fiscal action plan. At the end of the day, the question that the member for Victoria Park will have to answer is whether he will support the driver of that reform—that is, the changes to the Public Sector Management Act that will allow involuntary redundancy.

The driver of public sector reform, which is the biggest part of the \$6.8 billion, according to the Treasurer of the state, is involuntary redundancy. Yet, last night, on a number of occasions, the Premier of the state indicated that it is nothing to worry about and that involuntary redundancy will apply to only 100 individuals and at the very most 200. Firstly, I ask the Premier: who is telling the truth in that matter? Is the Premier correct that this will apply to 200 individuals at the most, or is the Treasurer correct and involuntary redundancy is the single biggest driver of all reform to the public sector workforce and therefore the fiscal action plan? That suggests it will affect way more than 200 people and that involuntary redundancy is at the very core of any reform or savings to be had out of this illusory fiscal action plan. That is the first question I would like the Premier to answer: which of those two views is correct?

Secondly, if the Premier is correct—if it is at the most only 200 individuals—what research, analysis or detailed work has been done to identify where those 200 individuals are located, what public sector entities they lie within and what work has or has not been done in those public sector entities on behalf of management to appropriately manage those individuals? If it is a failure of management, then the government should be doing something about it rather than introducing this blanket change to workforce conditions in the public sector. Those are the matters I raise: firstly, whether or not the Premier or the Treasurer is correct; and, secondly, in the event that the Premier is correct, what work has been done to identify whether the number is really 200. I think the second reading speech made reference to a much smaller number—79 or something like that. What work has been done to identify those individuals? Where do they lie and what work has been done to manage them out of the system under the current legislation rather than changing the entire legislation governing the public sector for the sake of what may be a small number?

Mr C.J. BARNETT: There are currently fewer than 80 people on the redeployment list. They are scattered across a whole range of agencies and are at different levels of seniority. I assume from that that the number of people who may be made voluntarily redundant is in the order of 80. Over time there may be some more. However, if this provision is passed, it is more likely that people who are on the redeployment list will take voluntary redundancy if it is offered, or, indeed, their supervisors or directors general will be better able to manage them. If they know that at the end of the day there is the prospect of involuntary redundancy, they are far more likely to take up opportunities to retrain or be redeployed or take voluntary redundancy. It becomes a management tool, which every other state in the commonwealth has and every private sector employer has. It is not radical or dramatic. The changes to the number of people within the public sector or any given agency will be achieved by voluntary redundancy and not through this measure.

Mr P. PAPALIA: Therefore, can the Premier confirm that the rhetoric used by the Treasurer, when he suggests that, firstly, workforce reform drives the fiscal action plan and that the changes to the Public Sector Management Act will allow involuntary redundancy are the drivers of the reform or was he being hyperbolic and extravagant

in the use of his language? Was he incorrect? Was he misleading the public? Was he playing politics, or was he just plain wrong?

Mr C.J. BARNETT: If the member is fascinated by that, I suggest he ask the Treasurer because it is not part of the bill. Public sector wages are by far the greatest cost to the state government; therefore, control of the total wages bill is fundamental in improving the financial position of the state and of individual agencies. I imagine it is in that context the Treasurer made those comments.

Mr D.J. KELLY: I take the Premier to the 80 people he says are currently on the redeployment list. Many people are concerned that the effect of this bill will not be limited to that group of 80 people and that over time that list will expand. For example, when the Royal Perth Rehabilitation Hospital in Shenton Park is closed and that work is transferred to Fiona Stanley Hospital potentially hundreds of staff will be placed on the redeployment list. That will be the same when the Swan District Hospital closes. There is a real concern that although there might be 80 people on that list at the moment, this bill will allow the Premier to implement involuntary severance more broadly to include more than 80. For the first time, this clause will insert into the Public Sector Management Act reference to “termination of employment”. I cannot see that this clause limits the number of people to whom it may be applied. Does this clause, or some other clause in the bill, limit it? I think the Premier has said that it would apply only to people who have gone through a lengthy process of being offered redeployment and not accepting. Where does it state in the bill that this will apply only to a small group of people and only after a lengthy process? This stuff will be dealt with by regulations, but we cannot see the regulations. Where is it limited, either in this amendment or elsewhere in the bill, to operate in the way that the Premier says it will operate? That is the first question. The second question is: are any of the 80 existing employees employed under industrial agreements covered by United Voice, the Health Services Union, the State School Teachers’ Union of WA, the Community and Public Sector Union–Civil Service Association of WA, the WA Prison Officers’ Union or the United Firefighters Union of WA? Where in this clause or elsewhere in the bill is the idea of involuntary termination limited in the way that the Premier says it is?

Mr C.J. BARNETT: With respect to the examples given, such as the rehabilitation unit at Shenton Park, I would think that perhaps the vast majority of those people would move across to the Fiona Stanley Hospital site. If they do not, we are confident that they can be redeployed somewhere else within the health system, and that is the intent. Similarly, we intend to continue to employ the staff currently employed at the Midland hospital; hopefully, they will move across to the new facilities. Despite the scare tactics that were applied last night, I think they will take up the opportunity to pursue their careers in a modern, sophisticated hospital with far better facilities for not only patients, but also staff, better security and all that goes with that. I think that health professionals and support workers with United Voice and whatever else will also do that. That will be encouraged. For those who do not, we are confident that we will be able to redeploy them elsewhere in the health system. They are not guaranteed permanency of employment at a particular site, but we think we can provide that across the system. That is what we intend to do. If a government builds new hospitals, which this government is doing, like no other government in the history of Western Australia, there will be transitional issues for employees. That is obvious. At the end of the day, it is about improving the public health system for Western Australians, and that is what we are doing. That may be difficult for some employees; we understand that. We will work constructively, properly, professionally and respectfully with them to achieve that.

The second part of the member’s question was —

Mr D.J. Kelly: Where in the bill is it limited in the way that you said it would be to just a small group after a long process and as a last resort? Are any of the existing 80 employed under instruments of those unions that I referred to?

Mr C.J. BARNETT: I am not sure about that. Obviously, there is a list of those, but I do not think it is fair and reasonable to divulge individual people, where they work and what category they are in.

Mr D.J. Kelly interjected.

Mr C.J. BARNETT: I might talk to the member privately about that, but I will not do it publicly. Of the 140 000 public servants, there are fewer than 80. This will be confined to a very small proportion of the public sector. To the extent that the state government may want to reduce the number of public servants, we will do it by involuntary redundancy, and we have demonstrated that already, with 1 000 involuntary redundancy offers out, which have already been oversubscribed. As the police minister announced yesterday —

Mr D.J. Kelly: Premier, just to correct the record —

Mr C.J. BARNETT: Excuse me; no.

Mr D.J. Kelly: You just said “1 000 involuntary redundancy offers”.

Extract from Hansard

[ASSEMBLY — Wednesday, 27 November 2013]

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Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

The DEPUTY SPEAKER: Order! The Premier is answering the question.

Mr D.J. Kelly: If you are going to say “involuntary” severance when you mean voluntary —

The DEPUTY SPEAKER: Order, member!

Mr C.J. BARNETT: The police minister also announced yesterday involuntary redundancies for about 180 police officers. We do not know how many will take that up.

Several members interjected.

Mr C.J. BARNETT: Madam Deputy Speaker, I will sit down. They are not listening, so there is no point.

Mr W.J. JOHNSTON: We were trying to help the Premier because he kept saying “involuntary” when he meant voluntary. We were not trying to get in his way. When we tried to help him, he rejected our help.

Mr C.J. Barnett: Because you were talking across me.

Mr W.J. JOHNSTON: No; I was talking to the member for Bassendean, because he tried to point out that the Premier had used the wrong word. We were trying to be helpful.

Mr C.J. Barnett: This is about involuntary redundancies.

The DEPUTY SPEAKER: Member for Cannington, can you direct your question to the clause, please.

Mr W.J. JOHNSTON: I am in fact doing that, Madam Deputy Speaker, because we want this cleared up. The Premier used the wrong word; we know he used the wrong word. We are not trying to nail him to the mast because he said “involuntary” when he meant to say “voluntary”. When the Premier looks at what happened, he will understand that we were trying to be helpful.

I want to ask two questions. Firstly, the “State of the sector report 2013” from the Public Sector Commissioner identifies roughly 138 000 public sector employees. Clause 9 of the bill will amend section 22A of the principal act. I want to know what percentage of those 138 000 public sector employees are covered by the provision in clause 9? I ask that to clarify commentary in the media that seems to suggest that certain public sector employees are not in fact covered by the provisions of this arrangement. If I could have that clarified, that would be very appreciated.

Secondly, we are giving power for the Public Sector Commissioner to set up written instructions dealing with these matters. If there is a conflict between a written instruction of the Public Sector Commissioner and either a contract of employment or an industrial instrument, will the instructions have precedence over those contracts of employment or industrial arrangements?

Mr C.J. BARNETT: The 138 000 individuals employed under the Public Sector Management Act—any public servants—are subject to this. Police and employees within government trading organisations are not subject to this provision because they are covered under the federal industrial relations system.

Ms S.F. McGURK: I want to follow up on the line of questioning that the member for Bassendean was working on. Under section 94 of the Public Sector Management Act, when someone is surplus to requirements, the commissioner can direct a registered employee to accept redeployment between one department and another. These are the people whose positions have been made redundant, they do not want to take redundancy and they are redeployees. If suitable employment cannot be found for them, they can be directed to accept redeployment to another department or organisation. Similarly, an employing authority of a department or organisation can be directed to accept an employee. An employee can be directed to go to a job and a department can be directed to accept an employee. Have directions ever been issued to a redeployee to accept a job under the provisions of the Public Sector Management Act?

Mr C.J. BARNETT: I will go through a summary of the process. There may be several reasons for the termination of a public sector employee. If it is a disciplinary matter, it is dealt with separately; it is not dealt with by this provision. If it is a matter of someone of substandard performance—in other words, it may be someone who simply refuses to work or is not competent to do the job for whatever reason—it is not dealt with by this provision. This provision relates to people who are surplus to requirements because their job has disappeared or been abolished; we are talking about only those people whose jobs have disappeared. If that happens, the process is that they are notified that they will be a registrable employee. The employer, who is typically the director general or CEO, is required to seek to do everything possible to provide alternative employment within the agency. This could include support in the form of training, placement opportunities and the like. The employer may offer a voluntary severance package and the person may or may not accept it. If no suitable job within the particular agency can be found, the employer may seek to register the employee for redeployment. The Public Sector Commissioner would then have to register the employee only if he is satisfied

that the employee is surplus, so there is another check in the system to make sure it is not over a personal disagreement. Once registered, the employee is entitled to priority access to jobs across the entire public sector, and retraining and counselling under the auspices of the Public Sector Commission, so that is another process. At the conclusion of a defined redeployment period, if alternative employment has not been found for the employee, they are determined to be redundant and liable to be terminated by the employer; in other words, the involuntary severance would then come in. If the employee has involuntary redundancy applied, they will receive an involuntary severance payment. There are steps at the agency level, steps in terms of other agencies, steps through the Public Sector Commission, and a period of training and placement. It is an exhaustive process but I have confidence in the Public Sector Commissioner and his staff to manage that properly so that does not allow for prejudice or personal differences of a spat, an argument or a bias. It will be pretty hard to be made involuntarily redundant—it is not an easy thing to do. At the moment, 80 people are in contention for that. Over the next few months we will probably see them put up their hand for a voluntary redundancy given that it is probably the more attractive option.

Ms S.F. McGURK: I appreciate the process that the Premier just outlined. However, the current bill enables a registered employee to be directed to accept redeployment to another department or organisation. Has any registered employee been directed to accept a job in another department?

Mr C.J. BARNETT: I cannot answer that emphatically, but I am advised that that has rarely been used.

Ms S.F. McGURK: Is that not the same scenario that a number of speakers talked about, particularly from the Premier's side of the house? They talked about redeployees or registered employees who are surplus to requirements, who are sitting around and not doing anything, and the reason we must enact an involuntary redundancy is because these people cannot be placed. However, under the current act we have the ability to redirect those people to suitable alternative employment, but it has never been done, or if has, it has been so rarely done that the Premier cannot think of it at the moment. The concern is that under the current legislation people can be directed to suitable alternative employment but it has never been used by the government.

Mr C.J. BARNETT: As I said, that provision is there but it has rarely been used—no-one can tell me when it was last used. There is no doubt that this is clearly a stronger provision and this government at least has an intent for people who cannot be placed into a suitable position—people whose prior job has disappeared and all of those stages I just read out have failed to provide a job or a suitable place in the public sector for that person—to be made involuntarily redundant. There is no doubt that involuntary redundancies will be applied to more people under these provisions. However, it will not be the large numbers that some members opposite suggested. We are currently talking about a group of 80 people, and it may rise above that but I stick to what I said; in broad terms, it will be somewhere between 100 to 200 people. We are not talking about hundreds and hundreds of people, as some of the member's colleagues have suggested.

Ms S.F. McGURK: I referred to another provision in that same clause; that is, that an employing department or authority can be directed to accept a redeployee. Is the Premier aware whether that provision in the current act has ever been used?

Mr C.J. Barnett: Rarely.

Ms S.F. McGURK: Just along this line of questioning, if we are finding it difficult to redeploy about 80 people in the state public sector, would it not seem sensible to direct those employees to suitable jobs or ask the employing authorities to accept redeployees before we enact involuntary redundancy?

Mr C.J. BARNETT: That might be a nice outcome but it is not the reality. In a workforce of 138 000 there will be a group of people whose job has disappeared and who, despite any abilities, skills or motivation they might have, fail to find a job that is good for them or for the agency. The Public Sector Commission cannot find them suitable employment, not through a lack of effort or a desire to do so, and they fall through the cracks. If they have not accepted an involuntary redundancy at some stage through that process, the final measure is involuntary redundancy. I do not think it is reasonable to taxpayers and other public servants that some people in the public sector are being paid but have not got a proper job. The member can expect this provision to be applied more rigorously. If the Labor Party returns to government, perhaps it will not use it, but this government will on the basis of fairness to hardworking public servants and the taxpayer, and the overall financial objectives of the state.

Ms S.F. McGURK: I agree. I do not think members on this side of the house would want to see the money of taxpayers wasted and people who are underemployed in the public sector. But what is it in the new bill that puts the onus on public sector agencies to better manage their staff and underemployed people so that the current resources are better used? It seems to me, in the Premier's answer to the questions I asked before about directing employees who are surplus to requirements, that those current redeployees are not being managed in the current system.

Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

Mr C.J. BARNETT: Every attempt is and has been made to manage them. No-one likes that situation. The answer to the member's question is that that will be done by regulations, and with the review that the Western Australian Industrial Relations Commission can undertake on individual cases. It will also be a matter of policy, whether it is government policy or the procedures laid down by the Public Sector Commissioner. The desire is to find gainful and productive employment for these individuals, but I acknowledge—perhaps the member does not—that some simply do not get there and worthy employment cannot be found for them. In that case, if they have not accepted involuntary redundancy, at the end of the day, they can be deemed to be subject to an involuntary redundancy.

Mr D.J. KELLY: I am a little surprised by the Premier's answer to the member for Fremantle that he was not aware of it happening, or that it happens so rarely that he could not give an example of someone being directed to take a job. When I was the secretary of United Voice, the government moved mountains to force people to take jobs that they sometimes did not want when their current job had been made redundant. I will give the example of some menu assistants working at Sir Charles Gairdner Hospital. I think there were four to six of them and they had been at the hospital for a long time. Their job was to take the orders from the patients. They really appreciated the patient contact that they had and they really enjoyed the interaction, and the patients did too. The hospital did a restructure and decided that that work would be done by a worker of a higher classification as part of the supervisory duties. Those menu assistants were then told that their jobs were being made redundant and they were offered redeployment to cleaning or catering positions at the lower level. A number of the staff—one or two—were happy to take those jobs because they wanted the jobs. The others did not want to take these other jobs and would rather have had a voluntary severance. Those workers were refused a voluntary severance. The government basically said it was not giving any of them a voluntary severance. They were put through the ringer by that employer and told that they would be a cleaner or a level 1 catering worker. As the union representing them, we went through the process. We questioned whether the new jobs were suitable alternative employment. I think the matter went once or twice before the Western Australian Industrial Relations Commission. The government's whole position for those particular workers was, "First, you're not going to get a voluntary severance, no matter what you say; and, secondly, if you don't take these new positions, basically you're out the door." They were to be terminated for refusing to accept the job that was deemed suitable alternative employment. That is often the experience of people at the lower salary levels in the public sector—certainly my experience. I am therefore surprised to learn that the Premier already has the ability under the existing act to direct 80 staff in the public sector to take a job that is suitable alternative employment but he is not doing it. Instead he is bringing in involuntary severance provisions that will potentially apply to everybody, when really there is this small problem that it seems to me the Premier could deal with if he just used the provisions of the current act the way they were intended to be applied.

Point of Order

Mr J.H.D. DAY: I respect that the member is raising an issue in which he has a lot of interest, but it relates to the general debate at the second reading stage that provided a number of opportunities to raise it, rather than deal with the specifics of what is provided in clause 9. I therefore ask that he be redirected specifically back to clause 9.

Mr W.J. JOHNSTON: On the point of order, this is a clause that inserts provisions to allow directions in respect of certain matters, and the member is raising examples of those certain matters. I could not imagine a more relevant question than the presentation being made by the member for Bassendean. I imagine that the member for Kalamunda is not as experienced as the member for Bassendean in these matters, which is perhaps why he is confused about the member for Bassendean's question. Clearly, when we are dealing with the ability of the commissioner to issue instructions about certain matters and the member for Bassendean is giving examples of those exact certain matters, it is exactly relevant to the clause.

The DEPUTY SPEAKER: Thank you, member for Cannington. Proposed section 22A is a very broad-ranging section. I therefore refer back to the member for Bassendean and ask him to direct his question to clause 9 as much as possible, please.

Debate Resumed

Mr D.J. KELLY: I suppose the thrust of what I am asking the Premier is whether this particular amendment is really necessary to resolve the problem he articulated. That is, the problem of the small number of people in the public sector who have fallen through the cracks and whom the Premier cannot deal with, when there are provisions in the Public Sector Management Act—drawn to the Premier's attention by the member for Fremantle—that appear not to have been utilised? Instead of utilising the current provisions, the Premier is bringing in a new provision that on the face of it could apply to anyone in the public sector; and that is what is causing the concern. Would the Premier not be better off using his existing tools first rather than introducing this new amendment?

Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

Mr C.J. BARNETT: That might be a matter of opinion. However, one point I make is that under the current provisions, if someone is directed to take a job, for example in another agency, and they refuse, they can be dismissed and they would not receive any benefit above their legal entitlements. Under the involuntary redundancy provisions in the bill they will receive an additional benefit. I would think in that sense at least it is in the employee's favour.

Mr W.J. JOHNSTON: I have a couple of questions for the Premier. The first is one that he perhaps missed when I asked it previously. Are the provisions in the bill subject to an employee's contract of employment and/or an industrial instrument? I am talking about the instructions. We will talk later about other matters, but I want to know whether these instructions can be contrary to an employee's contract of employment or their industrial instrument.

My next question is whether it is contemplated by the government that the powers under these provisions will be delegated to other people other than the commissioner under the delegation powers contained in section 23.

My third question is about the insertion of proposed paragraph (ga)(i) and (ii). Proposed subparagraph (i) relates to redeployment and redundancy of employees, and proposed subparagraph (ii) relates to termination of employment. Clearly termination of employment is a much broader issue than redundancy. I can imagine that the Premier wants instructions related to termination of employment, so I was wondering about the examples of things that might be included in the instructions on termination of employment as opposed to redundancy.

Mr C.J. BARNETT: That will be up to the future and to the Public Sector Commissioner of the day. The Public Sector Commissioner's instructions will not override any other industrial agreement, but the provisions in this bill can.

Mr D.J. KELLY: In answers to a number of questions, the Premier has outlined what the process will be, and I think in answer to my previous question the Premier said what the benefits will be if someone is made involuntarily redundant. The Premier said that the benefits that would accrue to someone who was made involuntarily redundant would be better than the benefits that would flow to someone who refused to take an offer of suitable alternative employment under the existing provisions. I cannot see it in this amendment, so where in the bill does it outline what the process will be?

Mr C.J. Barnett: That will be through the regulations.

Mr D.J. KELLY: That is one of the problems I have with some of the Premier's answers. He has stood in this place and said, "This is what will happen. It will be at the end of a long process only after people have gone through all these hoops, and people will get X, Y and Z benefit." However, none of that is actually in this bill. The bill is in fact silent on all of that. That will be left to be put in place by the regulations at some stage in the future. One of the concerns that people have about the passage of this bill is that so much of how it will operate and how people will be treated is not mentioned in the bill, yet the Premier has stood in this place and said, as if it is a fact, that this is what the process will be when the regulations are not before us. That is one of the concerns. Why does the Premier not put some of that material in the bill and then people can have confidence in how this will happen?

Question to be Put

Mr C.J. BARNETT: I move —

That the question be now put.

Division

Question put and a division taken, the Deputy Speaker casting her vote with the ayes, with the following result —

Extract from Hansard
[ASSEMBLY — Wednesday, 27 November 2013]
p6716a-6724a

Mr Paul Papalia; Mr John Day; Deputy Speaker; Mr Colin Barnett; Mr Dave Kelly; Mr Bill Johnston; Ms Simone McGurk

Ayes (30)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Mr D.C. Nalder
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Mr D.T. Redman
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr A.J. Simpson
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr M.H. Taylor
Mr I.M. Britza	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr T.K. Waldron
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	Mr A. Krsticevic (<i>Teller</i>)
Mr V.A. Catania	Mrs L.M. Harvey	Mr N.W. Morton	
Ms M.J. Davies	Mr C.D. Hatton	Dr M.D. Nahan	

Noes (16)

Dr A.D. Buti	Mr D.J. Kelly	Mr P. Papalia	Ms R. Saffioti
Mr R.H. Cook	Mr F.M. Logan	Mr J.R. Quigley	Mr C.J. Tallentire
Ms J. Farrer	Mr M. McGowan	Ms M.M. Quirk	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Ms M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)

Pairs

Mr S.K. L'Estrange	Mr P.C. Tinley
Mr T.R. Buswell	Ms L.L. Baker
Mr J. Norberger	Ms J.M. Freeman
Mr W.R. Marmion	Mr M.P. Murray
Mr M.J. Cowper	Mr P.B. Watson

Question thus passed.

Consideration in Detail Resumed

The DEPUTY SPEAKER: The question is that clause 9 do stand as printed.

Division

Clause put and a division taken, the Deputy Speaker casting her vote with the ayes, with the following result —

Ayes (31)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Dr M.D. Nahan
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Mr D.C. Nalder
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr D.T. Redman
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr A.J. Simpson
Mr I.M. Britza	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr M.H. Taylor
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic (<i>Teller</i>)
Ms M.J. Davies	Mr C.D. Hatton	Mr N.W. Morton	

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Dr A.D. Buti	Mr D.J. Kelly	Mr P. Papalia	Ms R. Saffioti
Mr R.H. Cook	Mr F.M. Logan	Mr J.R. Quigley	Mr C.J. Tallentire
Ms J. Farrer	Mr M. McGowan	Ms M.M. Quirk	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)

Pairs

Mr S.K. L'Estrange	Mr M.P. Murray
Mr J. Norberger	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr M.J. Cowper	Ms J.M. Freeman
Mr W.R. Marmion	Mr P.B. Watson

Clause thus passed.

Debate interrupted, pursuant to standing orders.

[Continued on page 6743.]