SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf of the Government

(Circulated with the authority of the Minister for Employment, Senator the Hon. Eric Abetz)
OUTLINE

The Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the Bill) deals with consequential and transitional matters relating to the re-establishment of the Australian Building and Construction Commission and other matters set out in the Building and Construction Industry (Improving Productivity) Bill 2013 (the BCI (IP) Bill). The Bill will ensure a smooth transition from the institutions, functions and powers created by the Fair Work (Building Industry) Act 2012 to the new regime established by the BCI (IP) Bill. The Bill also deals with residual operation of the Building and Construction Industry Improvement Act 2005 where necessary.

The Bill was referred to both the Senate Standing Committee on Education and Employment’s Legislation Committee and References Committee. The Legislation Committee’s report was tabled on 2 December 2013. The Reference Committee’s report was tabled on 27 March 2014.

The amendments to the Bill that the Government will move will provide that the Building Code 2013 that is in force under section 27 of the Fair Work (Building Industry) Act 2012 will continue in force after that Act is repealed by the Bill in relation building work to which the Building Code 2013 applied immediately before the Fair Work (Building Industry) Act 2012 was repealed.

FINANCIAL IMPACT STATEMENT

The financial impact of the Bill is budget neutral.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

See Statement of Compatibility with Human Rights at the end of this explanatory memorandum.
NOTES ON AMENDMENTS

In these notes on amendments, the following abbreviations are used:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>FWBI Act</td>
<td>Fair Work (Building Industry) Act 2012</td>
</tr>
</tbody>
</table>
Item 1 – Schedule 2, page 10 (after line 7), after item 7

1. This item inserts a new clause into the Bill which provides that the Building Code 2013 that was made under section 27 of the FWBI Act and in force immediately before the transition time continues in force after that time in relation to building work to which the Building Code 2013 applies immediately before the transition time. The term transition time is defined in the Bill to mean the commencement of section 3 of the BCI (IP) Bill.

2. This amendment will ensure that the obligations contained in the Building Code 2013 continue to apply to building contractors and building industry participants in relation to building work to which the Building Code 2013 applied prior to the transition time. This is because it is proposed that a Building Code made under section 34(1) of the BCI (IP) Bill once enacted will have prospective application and will apply to Commonwealth funded building work that is subject of an expression of interest or request for tender after that code commences.

3. The Building Code 2013 will not have any application in relation to an expression of interest or request for tender for Commonwealth funded building work after the transition time i.e. the commencement of section 3 of the BCI(IP) Bill. This means that future building work will be subject to the requirements of the new Building Code issued under section 34 of the BCI (IP) Bill.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011


These amendments to the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the Bill) are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of amendments to the Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013

The Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 (the Bill) deals with consequential and transitional matters relating to the re-establishment of the Australian Building and Construction Commission and other matters set out in the Building and Construction Industry (Improving Productivity) Bill 2013 (the BCI (IP) Bill). The Bill will ensure a smooth transition from the institutions, functions and powers created by the Fair Work (Building Industry) Act 2012 to the new regime established by the BCI (IP) Bill. The Bill also deals with residual operation of the Building and Construction Industry Improvement Act 2005 where necessary.

The amendments to the Bill that the Government will move will provide that the Building Code 2013 that is in force under section 27 of the Fair Work (Building Industry) Act 2012 will continue in force after that Act is repealed by the Bill in relation building work to which the Building Code 2013 applied immediately before the Fair Work (Building Industry) Act 2012 was repealed.

Human Rights Implications

The amendment to the Bill is technical in nature and does not engage human rights.

Conclusion

The amendment to the Bill does not engage human rights.

Eric Abetz, Minister for Employment