



THE HOUSE IN REVIEW

Volume 5

*Sitting period
27 to 29 October 2009*

The House in Review provides a summary of the Legislative Council's activities for each sitting week. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431.

Government bills considered in the Council

Animal Welfare Legislation Amendment Bill

Summary: The bill amends three Acts. The amendments to the Exhibited Animals Protection Act 1986 give guidance to the Director General of Industry and Investment when considering applications to display or exhibit animals in zoos, circuses, marine parks and similar places. The Director General may consider factors such as previous convictions for cruelty to animals. The Director General may also disqualify a person from holding an authority where that person has previously had an authority to exhibit cancelled on misconduct grounds. A process for appeal to the Administrative Decisions Tribunal is also included. The amendments to the Prevention of Cruelty to Animals Act 1979 enable a court order from another State or Territory prohibiting a person from buying or possessing an animal to be enforceable in NSW. The amendments to the Apiaries Act 1985 exempt beekeepers from a requirement to be registered in NSW where the beekeeper is registered in another state and only operates in NSW for less than a three month period.

Proceedings: The Opposition and the Christian Democratic Party supported the bill. Revd Dr Moyes supported the bill but criticised it for being purely administrative and not dealing with the issue of cruelty to animals. The Greens did not oppose the bill but expressed concern that the bill does not strengthen animal welfare rights in the State.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Education Amendment (School Attendance) Bill

Summary: The bill is intended to ensure that children of compulsory school-age attend school. The bill amends the Education Act 1990 to allow the Director General of the Department of Education and Training to request information from other agencies and schools to identify and locate children not attending school. Information on children not attending school can also be provided to the Department by concerned individuals. The bill gives the Department the power to convene conferences of people

and organisations with a potential role in improving the child's attendance. If this pre-court process does not result in improved attendance, the bill allows the Department to seek a compulsory schooling order from the Children's Court, the breaking of which may result in either fines (increased by this bill from 10 units, \$1,100, to a maximum of 100 units, \$11,000, for parents) or alternative punishment such as community services orders for the parents, and in some cases, the child.

The bill also makes other amendments to the Education Act 1990, including: (a) to require opportunities to be provided for Aboriginal families and communities to participate in decision-making about the education of Aboriginal children, and (b) to confer specific power on the Director General to determine the eligibility criteria for different kinds of government schools.

Proceedings: The Opposition and the Christian Democratic Party supported the bill, with reservations about the use of increased fines to punish parents and children. The Greens supported the bill with reservations about making truancy an issue of criminal justice.

The second reading was agreed to. During the committee stage, the Greens moved an amendment to remove financial penalties for children, which was negated (division 5:23). The Christian Democratic Party moved amendments to remove the increase in fines for parents, which were negated (division 5:23).

The bill was reported to the House without amendment, read a third time and returned to the Legislative Assembly without amendment.

Road Transport (Vehicle Registration) Amendment (Heavy Vehicle Registration Charges) Bill

Summary: The bill amends the Road Transport (Vehicle Registration Charges) Act 1997 to align heavy vehicle registration charges in NSW with other States and Territories, giving effect to nationally agreed reforms. The bill will amend the Road Transport (Vehicle Registration Charges) Act 1997 to define heavy vehicles, and the associated regulations will contain annually adjusted charges. Registration charges for heavy vehicles will

increase, particularly for large heavy vehicles such as B-doubles. The charges will take effect from January 2010. The bill repeals the Road Transport (Heavy Vehicle Registration Charges) Act 1995 and the Road Transport (Heavy Vehicle Registration Charges) Regulation 2006.

Proceedings: The Opposition and the Christian Democratic Party supported the bill.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Children (Criminal Proceedings) Amendment (Naming of Children) Bill

The bill originated in the Legislative Council.

Summary: The bill amends the Children (Criminal Proceedings) Act 1987 to implement many of the recommendations of the Standing Committee on Law and Justice's April 2008 report into the prohibition on the publication of names of children involved in criminal proceedings. The bill rewrites the existing offence of publishing or broadcasting a person's name in a way that connects the person with criminal proceedings involving children. Police and officers of the court are exempt from the prohibition when performing their duties. Children over 16 can only consent to publication or broadcasting of their names in the presence of a legal practitioner of their choosing. A senior available next of kin can consent to the publication or broadcast of the name of a deceased child, and in the absence of a senior available next of kin, the court will be able to give that consent if the public interest so requires. The bill also establishes certain matters to consider when a court decides whether to authorise the publishing or broadcasting of the name of a person sentenced for a serious children's indictable offence.

Proceedings: The Opposition, Christian Democratic Party and Revd Dr Moyes supported the bill. The Greens supported the bill but expressed reservations about the potential for infringing on the privacy of children, and noted that the bill did not implement the recommendation of the Law and Justice Committee which would extend the application of the prohibition to cover the period prior to charges being laid when juveniles become the subject of, or are likely to become the subject of, police activity.

The second and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

State Revenue Legislation Amendment (Defence Force Concessions) Bill

Summary: The bill amends the First Home Owner's Grant Act 2000 and the Duties Act 1997 to allow members of the Defence Force (who do not comply with the residence requirements of those Acts but are first home owners) to be eligible for a grant similar to the First Home Owner's Grant and duty concessions for first home owners.

Proceedings: The Opposition and the Christian Democratic Party supported the bill. The Greens did not oppose the bill, but expressed reservations about the potential misuse of the removal of the residency requirement. Revd Dr Moyes supported the bill.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Wine Grapes Marketing Board (Reconstitution) Amendment (Extension) Bill

The bill originated in the Legislative Council.

Summary: The bill postpones the repeal of the Wine Grapes Marketing Board (Reconstitution) Act 2003 from 1 January 2010 until January 2012. The bill allows the Wine Grapes Marketing Board to continue operations for a further two years while grape growers in the Riverina adapt to the Australian Wine Industry Code of Conduct and move from 'spot sales' of grapes (with default terms and conditions of payment set by the Board) to contracted sales.

Proceedings: After the second reading speech, the debate was adjourned for five calendar days, in accordance with standing orders.

Courts and Crimes Legislation Amendment Bill

Summary: The bill amends various courts and crimes-related legislation as part of the Government's regular review and monitoring program. Key elements of the bill are summarised below.

The bill includes amendments to a number of Acts to remove the power of the Attorney General to revoke appointments of Supreme Court judges as eligible judges for the purposes of issuing search and other warrants and exercising other similar administrative functions. Eligible judges are currently appointed with their consent on the declaration of the Attorney General. The bill removes the power of the Attorney General to revoke a declaration, to remove the possibility or perception of infringement on judicial independence.

Amendments to the Bail Act 1978 revise the test applied by the court when deciding whether to hear a further application for bail, to address significant misapplication of the test in section 22A, amended in 2007 to limit circumstances in which a person could make multiple bail applications in an attempt to prevent 'magistrate shopping'. The bill clarifies 22A to allow relevant facts and circumstances that have not previously been brought before the court to be grounds for a further application for bail, rather than requiring those facts to be 'new'. The intention of the amendments is to ensure that people with genuine reasons for further applications for bail are not disadvantaged.

The bill amends the Crimes (Criminal Organisations Control) Act 2009 (the so-called 'bikie legislation') to tighten some of the provisions to assist police law enforcement activity. The amendments allow control

orders to be issued against people who continue to be involved with criminal groups but who say they are no longer members. The bill also gives police powers to request identification from persons who are to be served control orders and establishes an offence of refusing to provide identification, or providing false identification. Police are also given the power to detain a person for up to two hours to allow police to serve them with an interim control order. A new offence of association by a person on a control order with another member of the same organisation on a control order is created, where that person associates three times within three months. The maximum penalty is three years imprisonment. This offence is additional to those in the current Act.

Other acts amended include the Children's Court Act 1987, the Civil Procedure Act 2005, the Criminal Procedure Act 1986, the Evidence (Audio and Audio Visual Links) Act 1998, and the Legal Profession Act 2004.

Proceedings: The Opposition noted that in addition to minor miscellaneous amendments the bill also makes important amendments to legislation, specifically the Bail Act 1978 and the Crimes (Criminal Organisations Control) Act 2009. The Opposition supported the bill, with reservations that the amendments to the Bail Act 1978 were not sufficient to address the problems arising from the 2007 amendments. The Christian Democratic Party supported the bill. The Greens expressed dissatisfaction with the range of Acts amended by the bill, including some minor amendments which are supported by the Greens and other more substantial and contentious amendments which the party does not support. The Greens specifically objected to amendments to the Crimes (Criminal Organisations Control) Act 2009, and cited the reservations of the Legislation Review Committee.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Private members' business

Motions

- (1) **Wallsend Aged Care Facility (Rhiannon):** Standing orders were suspended to bring on the item of business (division 20:17). An Opposition amendment to omit certain words and insert new words was negatived (division 15:22). The motion was agreed to (division 19:18).
- (2) **Abbotsford Public School (Harwin):** Standing orders were suspended to bring on the item of business (division 21:16). The motion was agreed to (division 18:16).
- (3) **National TAFE Day (Kaye):** Standing orders were suspended to bring on the item of business (division 18:17). A Government amendment to omit certain words was negatived (division 16:17). The motion was agreed to (division 17:16).

- (4) **Papers on agricultural high schools (Gay):** motion agreed under formal business.
- (5) **Bombings in Iraq (Nile):** Standing orders were suspended to bring on the item of business. An Opposition amendment was agreed to, and the motion as amended was agreed to.
- (6) **Legal Aid NSW (Griffin):** Standing orders were suspended to bring on the item of business, which was amended by leave of the House. The motion was agreed to.
- (7) **Breast Screen NSW (Westwood):** Standing orders were suspended to bring on the item of business. The debate was interrupted to allow government business to resume, in accordance with sessional orders.

Bills

- (8) **Crimes Legislation Amendment (Possession of Knives in Public) Bill (Nile):**

The bill originated in the Legislative Council

Summary: The object of the bill is to deter the possession of knives in public places and schools by increasing the maximum penalty for offences under the Summary Offences Act 1988 and the Law Enforcement (Powers and Responsibilities) Act 2002 relating to the possession of knives and other dangerous implements in public places and schools.

Proceedings: A message was received from the Legislative Assembly advising that the Legislative Assembly had passed the bill without amendment.

Orders for papers

Orders made

- (1) **Focus groups (Pearce):** motion, as amended by leave, agreed under formal business. Due 12/11/09)
- (2) **Coastal management (Cohen):** motion agreed under formal business. Due 12/11/09)

Petitions received

- (1) Unborn child protection – 285 signatures (presented Nile).

Other business

Reports tabled included

- (1) **Auditor General:**
 - (a) Report entitled 'Handback of the M4 Tollway: Roads and Traffic Authority of NSW' (October 2009).
 - (b) Report entitled 'Focusing on Electricity' (October 2009)
 - (c) Report entitled 'NSW Total State Sector Accounts' (October 2009).
- (2) **Legislation Review Committee:** Digest No. 14 of 2009.

- (3) **NSW Child Death Review Team:** Annual report for 2008, incorporating Volume 1: External causes of death, and Volume 2: Diseases and morbid conditions.
- (4) **Office for Children:**
- (a) Annual report of the Office for Children year ending 30 June 2009.
 - (b) Annual report of the NSW Commission for Children and Young People for year ending 30 June 2009.
 - (c) Annual report of the Children's Guardian for year ended 30 June 2009.

Adjournment debate

Tuesday 27 October

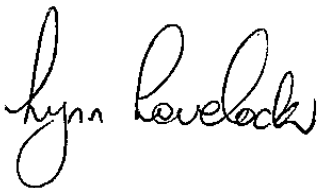
World Conference on Women and Sport (Voltz); Tillegra Dam (Parker); Samoa and Padang Natural Disaster (Cohen); JobSupport (Fazio); Cooma Health Services (Pavey); Helensburgh planning (Hale); Flight of the *Uiver* 75th anniversary (Veitch).

Wednesday 28 October

Associazione Puglia 30th anniversary (Harwin); Brandy Marys voluntary conservation agreement (Cohen); Death of Lyn Alcock (Westwood); Planning transparency and accountability (Khan); Political donations (Rhiannon); Occupational Health and Safety laws (Donnelly); The Nationals 90th anniversary (Colless).

Thursday 29 October

Climate change treaty (Nile); Illawarra community consultation meeting (Pearce); New South Wales – Guangdong Sister State relationship (Tsang); Prison Fellowship (Moyes); Hay district (Catanzariti); Bathurst Freedom of Entry ceremony (Colless); All Saints Grammar School Belmore Junior Campus (Griffin).



Lynn Lovelock
Clerk of the Parliaments