

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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The *House in Review* provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the *House in Review*, please contact us on council@parliament.nsw.gov.au.

Overview

The House debated four government bills this week and deliberated on two regulatory disallowance motions in relation to biofuel. However, it was the debate on three private members' bills and a private member's motion that evoked the most emotion in the House this week. On Thursday the House passed the Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2017, introduced by Mr Brown (Shooters, Fishers and Farmers).

This week the House was also advised of the resignation of the Honourable Michael Gallacher, a long-serving member of the House since 1996. At a joint sitting of the two Houses held on Wednesday to fill the vacant seat, Mr Taylor Martin was elected to the Council. Mr Martin is the 875th member of the Legislative Council since 1856, and the 142nd since the reconstitution of the Legislative Council in 1978.

The House now stands adjourned until Tuesday 9 May 2017.

Election of a new member – Mr Taylor Martin

On Tuesday 2 May 2017, the President reported receipt of correspondence from His Excellency the Governor advising of the resignation of the Hon Michael Gallacher (Liberal) as a member of the Council on 6 April 2017.

Subsequently, on Wednesday 3 May 2017, the President announced receipt of a message from His Excellency the Governor convening a joint sitting of the two Houses to elect a member to fill the vacancy caused by the resignation of Mr Gallacher. Later that day, the two Houses convened for the joint sitting in the Legislative Council chamber and elected Mr Taylor Martin to fill the vacant seat. Mr Martin will be sworn in as a member and commence his duties on Tuesday 9 May 2017.

Motion to disallow biofuel related regulations

On Wednesday 3 May 2017, Mr Buckingham (The Greens) moved a motion to disallow the Biofuels Regulation (No 2) 2016, which underpins amendments made by the Biofuels Amendment Act 2016, and the Fair Trading Amendment (Fuel) Regulation 2016, which alters certain fuel pricing requirements.

Mr Buckingham argued that under these regulations small independent fuel retailers will be liable for prosecution from 1 July 2017 if they have not either moved to comply with the requirement to make E10 petrol available or have not secured an exemption. He stated that the ethanol mandate was not environmentally sensible, had been introduced to benefit a political donor, forces retailers to sell a product

consumers do not want, imposes unreasonable costs on small business which affects the viability of some communities, and drives up costs for consumers.

The Minister (Mrs Mitchell) opposed the motion on various grounds, including that the biofuel mandate had been reaffirmed by the Parliament in legislation in 2016, that the reforms would deliver regional jobs, and that small petrol retailers would not be captured by the volume sales threshold which determines whether the mandate applies. Other government members who spoke in the debate raised concerns about aspects of the reforms but indicated that they would not support the motion to disallow the regulations.

The Opposition did not support the motion, stating that it was in favour of clean green fuel sources that generate local jobs. The Opposition also noted that it would monitor the effects of the mandate on small businesses. The CDP opposed the motion, arguing that E10 is a cleaner fuel which supports local jobs.

The motion was negatived (Division: 6/31).

Government business

Note: Government business includes Government bills introduced or carried by ministers in the Council.

[Tattoo Parlours Amendment Bill 2017](#)

House of Origin: Legislative Assembly

This bill amends the Tattoo Parlours Act 2012, which was originally framed to curb infiltration of the industry by organised criminal groups. The bill enables tattoo parlour licences to be renewed upon expiry rather than requiring a new application to be made. The bill also provides that the privilege against self-incrimination does not excuse a person who is required to furnish information to, or answer questions from, authorised officers from doing so, and makes a number of other amendments of an administrative nature.

Speaking to the bill, the Parliamentary Secretary (Mrs Taylor) argued that the bill will ensure that the Tattoo Parlours Act 2012 remains efficient and fit for purpose, and reduces the red tape burden on tattoo parlours. The Parliamentary Secretary also noted that the bill clarifies that in determining whether an individual should be granted an operator or tattooist licence, or be permitted to continue to hold one, the commissioner may make an adverse security determination on the grounds that a close associate of the applicant or licensee is not a fit and proper person.

The Opposition did not oppose the bill and the Christian Democrat Party commended the bill to the House.

The Greens opposed the bill and expressed significant concerns, including that it was another government act that would lead to the waste of time and police resources on marginal issues, and that the initial Act made no effective contribution to the overall fight against organised crime. However, the Greens did support the licence renewal provisions of the bill.

The second and third reading of the bill were agreed to, and the bill returned to the Legislative Assembly without amendment.

[Security Industry Amendment Bill 2017](#)

House of origin: Legislative Assembly

The security industry, given its nature, is considered a vital but nevertheless high-risk industry. In recognition of this, the industry in the state is regulated by the NSW Police. The bill makes a number of changes, requested by the industry regulator, in relation to the licencing and regulation of persons in the security industry. The changes include the setting aside of the common law privilege against self-incrimination for industry participants and provision for the Commissioner of Police to suspend a security licence for up to 120 days.

In his speech that was incorporated into Hansard, the Parliamentary Secretary (Mr Farlow) noted that it was vital that the Commissioner of Police and his delegate – as industry regulator – are appropriately empowered and resourced to keep the industry honest and to ensure security licence holders are appropriately trained to do their job.

The Opposition did not oppose the bill, noting that it was not unreasonable for the public to expect that the security industry is appropriately regulated. The Opposition further noted that no issues had been identified during its consultation regarding the proposed provisions in the bill.

The second and third readings of the bill were agreed to, and the bill was returned to the Legislative Assembly.

Civil Liability (Third Party Claims Against Insurers) Bill 2017

House of origin: Legislative Council

The bill gives effect to the recommendations of the NSW Law Reform Commission's report 'Third party claims on insurance money'. The recommendations resulted from a review of section 6 of the Law Reform (Miscellaneous Provisions) Act 1946. The bill replaces section 6 of that Act with provisions that ensure a plaintiff can recover compensation or damages directly from an insurer.

The Parliamentary Secretary (Mr Clarke) argued that the bill resolves the complexity and uncertainty associated with the current operation of section 6, modernises the law governing third party insurance claims and ensures that the law adapts to changes in the insurance market since it was enacted 70 years ago.

The second reading was adjourned for five calendar days.

Gas and Electricity (Consumer Safety) Bill 2017

House of origin: Legislative Assembly

Currently, the provisions for the safe use of gas and electricity by consumers and for minimum safety standards for gas and electrical equipment and installations reside in a number of separate Acts and regulations. The bill consolidates these existing provisions into a single Act, thereby providing for a consistent compliance and enforcement regime for both energy sources including by extending certain compliance mechanisms currently available for electrical safety to gas safety. The bill also confers additional powers on authorised Fair Trading officers to deal with situations that pose a risk of harm.

In his second reading the speech the Parliamentary Secretary, Mr Franklin, stated that the bill would reduce red tape for industry and increase protections for consumers, particularly with respect to gas appliances. The Parliamentary Secretary argued that the bill will give NSW Fair Trading appropriate and necessary powers to deal with gas and electricity consumer safety, and indicated that information and education would be provided prior to the introduction of the Act to make stakeholders aware of their rights and obligations. Other Government members spoke in support of the bill.

The Opposition did not oppose the bill. The Christian Democratic Party supported the bill and its promotion of a consistent and efficient regulatory framework for gas and electrical products and services. The CDP noted that gas and electricity are essential to our daily lives and that it is important to ensure that consumer safety and product reliability is paramount.

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

Private members' business

Note: Private members' business is business introduced by members of the House other than Government ministers. There are two types of private members' business: private members' bills and private members' motions.

Bills

Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2016 (Mr Brown, Shooters, Fishers and Farmers Party)

Debate on the bill resumed from 6 April 2017 (see earlier House in Review).

Members of the Opposition, the Christian Democratic Party, the Shooters, Fishers and Farmers Party, the Animal Justice Party and a member of the Government all spoke strongly in support of the bill. All the contributions from various members emphasised the essential importance of having a registered nurse on call at nursing homes where high level care is provided. Members drew attention to the ageing population and the increasing number of citizens that will come to rely on an adequate and professional level of care at nursing homes, either for themselves or for members of their families.

The Shooters, Fishers and Farmers argued that as the bill only reinstates a longstanding minimum standard of care in nursing homes there could not be any comprehensible grounds for opposition to the bill.

The Government noted that it and other State Governments were working with the Federal Government in revising national accreditation standards with a view to developing a single quality framework that will apply to all aged-care services, including residential, home and flexible care. When the bill was last debated in April, the Government's position was that it could not support the bill. The Government advised that, as the issue was currently being worked through at the State and Commonwealth level, it would not oppose passage of the bill, but would allow it and any proposed amendment to be reviewed in detail in the Legislative Assembly.

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

Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Bill 2017 (Mr Secord, Australian Labor Party)

Debate resumed from 6 April 2017 (see earlier House in Review).

The bill amends the Public Health Act 2010 to prevent unvaccinated children being enrolled at childcare facilities if the only reason that they are unvaccinated is a parent's conscientious belief. The Government did not support the bill, arguing that it took a simplistic approach to a complex policy issue and that it contained inherent risks that had the potential to further disadvantage the most vulnerable children in the State's communities. The Government stated that it would consider the issue as part of the overall statutory review of the *Public Health Act 2010* and within the framework of a nationally coordinated approach. The Minister for Early Childhood Education took the opportunity to place on the record that any childcare centre with an anti-vaccination policy would never receive approval to operate.

The Greens supported the bill on the grounds of its underlying principle and what it was seeking to achieve, but recognised that it was a simplistic approach that would require supplementary policy work and legislation in the future. The Greens were concerned that the bill's punitive approach might lead to some parents simply withdrawing their children from approved childcare rather than result in greater vaccination rates. The Greens noted that at this stage there was a need for more education initiatives and support structures for parents who were vaccination hesitant. Speaking to the broader issue of vaccination generally, the Greens noted that the major issue that needed to be addressed was vaccination rates among adults, particularly those over 65.

The Opposition spoke in support of the bill, arguing that action was required now given the unacceptably low vaccination rates in certain areas of the State. The Opposition argued the bill was necessary to close loopholes in the current vaccination policy, while the Government worked toward developing a new policy.

Debate was adjourned until the next sitting day.

Crimes Amendment (Zoe's Law) Bill 2017

Debate resumed from 9 March 2017 (see earlier House in Review).

Speaking to the bill, Mr Green (CDP) noted that the bill was about justice. He observed that the heartache suffered by those who lose a child, including an unborn child, not through illness or disease but through negligence, carelessness, malice or the actions of others, is immeasurable. However, Mr Green argued that the response of the law to such incidents is gravely deficient, and that this bill is for all those unborn victims who do not have a name or who are yet to be named, and for all those parents who are denied the fulfilment of their hopes and dreams and to see their child grow up.

Debate was adjourned until the next sitting day.

Motion

Dementia Awareness Month (Mrs Taylor, The Nationals)

Debate on the motion resumed from 20 October 2016 (see earlier House in Review).

The motion notes that September is Dementia Awareness Month, and that across Australia more than 353,800 Australians live with dementia, supported by some 1.2 million carers, friends and family.

Members spoke of the increasing impact of dementia in Australia, noting that it is the fastest growing cause of major disease and is currently the third most common cause of death, after heart disease and stroke. Some members reflected on their personal experiences of having family or friends afflicted by dementia and noted that as the population lives longer more people will be confronted by the disease.

Debate was adjourned until the next sitting day.

Motions taken as formal business

The following items of private members' business were agreed to as formal business without amendment or debate:

- (1) 2017 Rural Women's Award (Mrs Taylor).
- (2) Mr John Clarke (Dr Faruqi).
- (3) 2017 Commemoration of Yom Hashoah (Mr Clarke).
- (4) 32rd National Electric Wheelchair Sports (Mrs Maclaren-Jones).
- (5) "Skirts on Sacred Benches" re-enactment (Dr Faruqi).
- (6) Chaldean League Australia fundraising event (Mr Clarke).
- (7) Joint Celebration of Harmony Day and the Festival of Holi (Mr Clarke).
- (8) World Earth Day and the March of Science (Dr Faruqi).
- (9) Wagga Women's Health Centre (Dr Faruqi).
- (10) Rob Stewart (Dr Faruqi).

Petitions received

Government responses

- (1) Response from the Honourable Brad Hazzard MP, Minister for Health and Minister for Medical Research, to a petition presented by Mr Green on 7 March 2017 concerning the relocation of Fairfield Ambulance Station
- (2) Response from the Honourable Gabrielle Upton MP, Minister for the Environment, Minister for Local Government and Minister for Heritage, to a petition presented by Mr Green on 23 February 2017 concerning compulsory acquisition of Hurstville Baptist Church.

Committee activities

Committee membership

Portfolio Committee No. 3 – Education: The Hon Lou Amato MLC replaced the Hon Mike Gallacher MLC and was elected chair of the committee.

Committee reports tabled

Legislation Review Committee: ‘Legislation Review Digest No. 35/56’, dated 2 May 2017.

Committee reports debated

General Purpose Standing Committee No. 4: The House concluded the take note debate on Report No. 33 entitled ‘Budget Estimates 2016-2017’, dated November 2016.

Select Committee on the Legislative Council Committee System: The House concluded the take note debate on the report entitled ‘The Legislative Council Committee System’, dated November 2016.

Standing Committee on State Development: The House continued the take note debate on the report entitled ‘Regional planning processes in New South Wales’, dated November 2016.

General Purpose Standing Committee No. 2: The House continued the take note debate on Report No. 45 entitled ‘Budget Estimates 2016-2017’, dated December 2016.

Inquiry activities

Select Committee on Off-Protocol Chemotherapy in New South Wales

The committee has received 115 submissions and conducted six hearings. The committee will report by 19 May 2017.

Select Committee on Human Trafficking

The committee has received 28 submissions and held two hearings. Further hearings will take place on 29 May and 15 June. The committee is due to report by September 2017.

Standing Committee on Law and Justice

First review of the Dust Diseases and Lifetime Care and Support schemes

The committee commenced its first review of the Dust Diseases and Lifetime Care and Support schemes on 13 March 2017. The committee has received 7 submissions for the review of the Lifetime Care and Support scheme and 5 submissions for the Dust Diseases scheme. The committee will conduct a hearing on 2 June 2017.

Standing Committee on State Development

Inquiry into regional development and a global Sydney

Submissions to the inquiry close on 4 June. A Sydney hearing will be held on 19 June and regional visits will be conducted in August and September 2017. The committee is due to report by April 2018.

Portfolio Committee No. 2 – Health and Community Services

Inquiry into road tolling

Submissions to the inquiry have now closed. The committee held two public hearings on 11 and 12 April 2017 and will hold an additional public hearing on 22 May 2017.

Portfolio Committee No. 3 – Education

Inquiry into students with disability or special needs in New South Wales schools

The committee has received 409 submissions to date and has held two public hearings in Sydney. The next two hearings will take place on 8 May 2017 in Newcastle and 19 May 2017 in the Illawarra, with further hearings to be held in June 2017.

Portfolio Committee No. 4 – Legal Affairs

Inquiry into museums and galleries

The committee has received 173 submissions and held six public hearings to date. The committee has extended its reporting date to 15 June 2017.

Portfolio Committee No. 5 – Industry and Transport

Inquiry into water augmentation for rural and regional New South Wales

The committee has received over 100 submissions. The committee will be holding hearings in Moree, Tamworth and Orange from 15 to 17 May, with further Sydney hearings in early June 2017.

Portfolio Committee No. 6 – Planning and Environment

Inquiry into energy from waste technology

The committee has commenced its inquiry into ‘energy from waste’ technology. The closing date for submissions is 28 May 2017 and the committee intends to conduct hearings in the latter half of the year.

Reports tabled

Ombudsman: “Asbestos: How NSW government agencies deal with the problem”, dated April 2017

Auditor General:

- (1) ‘Passenger rail punctuality: Transport for NSW, Sydney Trains, NSW Trains’, dated April 2017
- (2) ‘Contingent workforce: procurement and management: Department of Education, Transport for NSW, Department of Industry’, dated April 2017
- (3) ‘Therapeutic Programs in Prisons’, dated April 2017
- (4) ‘Therapeutic Programs in Prisons: Department of Justice, Correction Services NSW’, dated May 2017
- (5) ‘Planning for School Infrastructure: Department of Education’, dated May 2017.

Adjournment debate

Tuesday 2 May 2017

Tribute to the Hon Michael Gallacher (Mr Gay); Coal industry (Mr Searle); Abortion law reform (Dr Faruqi); Anzac Day commemorations (Mr Mallard); Citizenship (Mr Moselmane); Global leadership (Mr Field).

Wednesday 3 May 2017

Local government amalgamations (Mr Primrose); Human trafficking homelessness (Mr Green); Eden

infrastructure (Mrs Taylor); Airtasker (Mr Mookhey); Islamophobia Versus Christophobia (Revd Mr Nile); Anzac Day (Mr Clarke).

Thursday 4 May 2017

Regional arts (Mrs Maclaren-Jones); North Coast floods (Mr Secord); Planning laws (Mr Shoebridge); Ronald McDonald House Orange (Mr Colless); Safe Schools Program (Ms Sharpe); Specialist demonising (Mr Pearson).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to

stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.



David Blunt
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