

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2012
PROOF 17 OCTOBER 2012

Bill introduced on motion by the Mr Greg Smith, read a first time and printed.
Second Reading

Mr GREG SMITH (Epping—Attorney General, and Minister for Justice) [4.42 p.m.]: I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No 2) 2012 continues the long-standing statute law revision program. Bills of this kind have featured in most sessions of Parliament since 1984 and are recognised as an effective tool for making minor policy changes, repealing redundant legislation and maintaining the quality of the New South Wales statute book. Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a separate amending bill. That schedule contains amendments to 23 Acts. I will mention some of the amendments to give members an indication of the kind of amendments that are included in the schedule. Schedule 1 amends the Australian Museum Trust Act 1975 to provide that a trustee of the Australian Museum Trust, the director of the Australian Museum or a person acting under the direction of the trust or the director is not personally liable for an act or omission done in good faith for the purpose of executing that Act. The amendment does not affect the liability of the trust for any such act or omission.

The DEPUTY-SPEAKER (Mr Thomas George): Order! The member for Heffron will have an opportunity to participate in the debate.

Mr GREG SMITH: The schedule contains equivalent amendments to the Library Act 1939, the Museum of Applied Arts and Sciences Act 1945 and the Sydney Opera House Trust Act 1961. Schedule 1 contains miscellaneous amendments to the Children and Young Persons (Care and Protection) Act 1998. These include an extension of the present scheme under which mandatory reporters, such as teachers, health care workers and police officers, can refer their suspicion that a child is at risk to assessment officers within the child welfare units of their agencies as an alternative to reporting directly to the Director General of the Department of Family and Community Services. In the interests of consistency, the amendments extend the scheme by enabling mandatory reporters to refer to assessment officers where the person suspected of being at risk is an unborn child, or a young person who is 16 or 17 years of age.

Another amendment to that Act will simplify applications to the Children's Court for care orders in line with recommendations of the 2008 Special Commission of Inquiry into Child Protection Services in New South Wales. The amendment will achieve this by generally requiring an application to be accompanied by a written report summarising the circumstances of the case only if the application is for an initial care order, rather than, for example, an order rescinding or varying a care order. Schedule 1 will update a definition of offences involving violence in the Criminal Procedure Act 1986 by correcting a cross-

reference to the offence of recklessly causing grievous bodily harm and inserting a cross reference to the offence of recklessly causing bodily harm in company. Alleged victims of offences involving violence who have made a written statement generally cannot be directed to attend committal proceedings.

Schedule 1 amends the Public Finance and Audit Act 1983 by requiring the Audit Office to be reviewed by the Public Accounts Committee every four years, rather than every three as is currently the case. This amendment gives effect to that committee's recommendation in a report on the 2009 review of the Audit Office to align the frequency of these reviews with the four-year term of the Legislative Assembly. Schedule 1 amends the Residential Tenancies Act 1998 to enable proceedings for an offence relating to a rental bond to be commenced within three years after the commission of the offence or the termination of the residential tenancy agreement, whichever is the later. This Act generally prevents proceedings for an offence being brought more than three years after the offence is committed.

However, an offence relating to a rental bond, such as the landlord's failure to deposit the bond with NSW Fair Trading at the outset of the tenancy, may not come to light until more than three years after it is committed—for example, when the tenant claims the bond after terminating the tenancy. Schedule 1 also amends the Special Commissions of Inquiry Act 1983. The amendments will make the eligibility criteria for appointment as a commissioner for a special commission of inquiry similar to the eligibility criteria for appointment as a commissioner for a standing commission, such as the New South Wales Crime Commission, the Independent Commission Against Corruption and the Police Integrity Commission. As a result, the range of persons who may be appointed as a commissioner generally will be broader, enabling a person to be appointed who holds, has held, or is qualified to hold judicial office in Australia, or who is an Australian lawyer of seven years standing.

Currently, appointments generally are limited to New South Wales judges or Australian lawyers of seven years standing. Finally in relation to schedule 1, I mention an amendment to the Water Management Act 2000. The amendment enables the Minister for Primary Industries to amend an access licence held by the Commonwealth or the State by increasing the shares in a water source or management area that are held under the licence in order to give effect to a Commonwealth or State agreement and where the licence is to form part of the Commonwealth's environmental water holdings or is to be used for environmental purposes.

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This proposal is in line with the Minister's existing powers to grant access licences to the Commonwealth or State in order to give effect to such an agreement.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that Parliamentary Counsel considers are appropriate for inclusion in the bill. Examples of amendments in schedule 2 are those arising out of the enactment of other legislation, those correcting numbering and typographical errors and those updating

terminology. Schedule 3 repeals a number of Acts and provisions of Acts and instruments that are redundant. Schedule 4 contains general savings, transitional and other provisions. These include provisions to limit the effect of amendments on amending provisions and a power to make regulations for savings or transitional matters if necessary.

The various amendments made by the bill are explained in detail in the explanatory notes set out beneath the amendments to the Acts or statutory instruments concerned or at the beginning of the schedule concerned. I am sure members will appreciate the straightforward and non-controversial nature of the provisions in this bill. However, if any amendment causes concern or requires clarification it should be brought to my attention. If necessary, I will arrange for government officers to provide additional information on the matters that are raised. If any matter of concern cannot be resolved and may delay the passage of the bill, the Government is prepared to consider withdrawing that matter from the bill. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a later hour.