

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to make various amendments to the *World Youth Day Act 2006* (***the Principal Act***) to make further provision in relation to the planning, co-ordination and delivery of services in relation to World Youth Day 2008 and related events.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the *Passenger Transport Act 1990* set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of World Youth Day Act 2006

Amendments relating to terms and expressions

Schedule 1 [1] inserts a number of definitions into section 3 of the Principal Act for the purposes of that Act.

The Principal Act currently defines the ***World Youth Day period*** to be the period from 1 July 2008 to 31 July 2008, inclusive. Under that Act certain functions may be exercised and certain provisions have effect during that period. **Schedule 1 [2]** and **[4]** replace the definition of ***World Youth Day period*** in section 3 of the Principal Act, and insert proposed section 3B into that Act, to provide that the end of that period may be extended by the regulations. However, the regulations may not prescribe a day that is later than 31 December 2008.

For added clarity and certainty, **Schedule 1 [4]** inserts proposed section 3A into the Principal Act to provide that the Minister administering the Principal Act, currently the Deputy Premier (***the Minister***) may designate specified areas as ***World Youth Day declared areas***. **Schedule 1 [3]** amends the definition of ***World Youth Day venue or facility*** to provide that World Youth Day declared areas (along with other venues and facilities) are such venues or facilities for the purposes of the Principal Act.

Amendment relating to government agency co-operation

Schedule 1 [5] inserts proposed section 15A into the Principal Act to provide that the Minister may direct certain government agencies to comply with a request, direction or decision of the World Youth Day Co-ordination Authority (***the Authority***) made or given under that Act.

Amendments relating to timing

Currently section 37 of the Principal Act provides that until 1 August 2008, certain activities may be carried on despite the fact that the activity is not authorised by or is contrary to or inconsistent with an environmental planning instrument or development consent applying to the land. **Schedule 1 [6]** and **[7]** amend section 37 of the Principal Act to provide that such activities may be carried out until the specified ***expiry date***. The ***expiry date*** is defined as 1 September 2008 or such later date as is prescribed by the regulations (being a date that is not later than 31 December 2008).

Currently sections 45 (Illegal car parks) and 46 (Control of sale and distribution of articles in certain public places) of the Principal Act contain provisions that have

effect during the World Youth Day period. **Schedule 1 [9]–[13]** amend those sections to provide that the relevant provisions have effect during a defined **parking control period** and **sales control period**, respectively. Both are defined to be the period from 1 July 2008 to 31 July 2008, inclusive, or such other period as may be prescribed by the regulations (being a period that does not begin before 1 June 2008 or end after 31 December 2008).

Amendment relating to use of Randwick Racecourse for World Youth Day events

Schedule 1 [8] inserts proposed Part 9A (proposed sections 44A–44J) into the Principal Act to deal with the use of Randwick Racecourse for World Youth Day events.

Proposed section 44A makes it clear that a reference in the proposed Part to the use of Randwick Racecourse for the purpose of a World Youth Day event includes:

- (a) holding a World Youth Day event at Randwick Racecourse, and
- (b) making preparations for any such event, and
- (c) cleaning up and restoring Randwick Racecourse after any such event, and
- (d) such supplemental, incidental or consequential acts as may be necessary or expedient for carrying out any action referred to in paragraph (a), (b) or (c).

The proposed section also provides that for the purposes of the proposed Part, a **WYD event agreement** is a written agreement between the AJC and the State of New South Wales for the use of Randwick Racecourse for the purposes of one or more World Youth Day events that provides that it is a comprehensive agreement for the use of the Racecourse.

Proposed section 44B makes it clear that despite any other written or unwritten law, or any other instrument, the AJC, and the Chairman and the Committee of the AJC, may and are authorised to:

- (a) use Randwick Racecourse, or permit that Racecourse to be used, for the purposes of one or more World Youth Day events, and
- (b) enter into one or more agreements with the State of New South Wales for the use of Randwick Racecourse for the purposes of any such event.

Proposed section 44C provides that the Minister may direct persons or bodies, or persons or bodies belonging to a class of persons or bodies, prescribed by the regulations to take specified actions, or cease or refrain from taking specified actions, for the purpose of carrying out a WYD event agreement or otherwise enabling the use of Randwick Racecourse for the purposes of one or more World Youth Day events.

Further, proposed section 44C (5) provides that a person or body to whom a direction relates, must not:

- (a) contravene or fail to comply with a direction given under the proposed section, or
- (b) cause or permit another person or body to contravene or fail to comply with such a direction.

Directions may be enforced in proceedings brought under proposed section 57A (see below).

Proposed section 44D provides that if no WYD event agreement is in force, the Minister may, by order, specify the maximum amount of compensation (other than compensation for loss in relation to acts or omissions that cause personal injury to a person or the death of a person) that is to be paid to the AJC and other persons in connection with that use of Randwick Racecourse. If such a maximum amount is specified, the State and any authority of the State is not liable to pay any other compensation to the AJC or such other persons in connection with that use of Randwick Racecourse (other than compensation for loss in relation to acts or omissions that cause personal injury to a person or the death of a person).

Proposed section 44E provides that if the Minister has, by order published in the

Gazette, declared that it is necessary, then certain authorised persons may enter, and use, Randwick Racecourse for the purpose of one or more World Youth Day events. Proposed section 44F makes it an offence for a person to:

- (a) intentionally delay or obstruct another person who is:
 - (i) lawfully carrying out any work to facilitate the holding of World Youth Day events at Randwick Racecourse, or
 - (ii) lawfully entering, or attempting to enter, Randwick Racecourse for such a purpose, or
- (b) without lawful excuse, intentionally interfere with or damage any works or structure at Randwick Racecourse that facilitate the use of the Racecourse for World Youth Day events, or
- (c) cause or permit another person to do anything referred to in paragraph (a) or (b).

The proposed offence carries a maximum penalty of 500 penalty units (currently \$55,000).

Proposed section 44G limits compensation that is payable in respect of the use of Randwick Racecourse. The proposed section provides that no compensation is payable by or on behalf of the State or an authority of the State, or the company WYD 2008 (ACN 118 060 987), or the AJC, the Committee of the AJC (or the Chairman and its members), or the members of the AJC, for an act or omission that is a Randwick Racecourse WYD event-related matter or that arises (directly or indirectly) from a Randwick Racecourse WYD event-related matter. A **Randwick Racecourse WYD event-related matter** is defined to be the holding of any World Youth Day event at Randwick Racecourse, any preparations for any such event, any clean up and restoration of Randwick Racecourse after any such event and the exercise of functions under the Principal Act in relation to Randwick Racecourse.

The limitation on compensation set out in the proposed section:

- (a) applies only in respect of acts done or omitted to be done in good faith, and
- (b) does not apply to acts or omissions that cause personal injury to a person or the death of a person, and
- (c) does not apply to compensation paid or payable to the AJC or any other person for loss connected with the use of Randwick Racecourse for World Youth Day events under:
 - (i) a WYD event agreement, or
 - (ii) an order under proposed section 44D.

The proposed section also clarifies the personal liability of the Chairman and members of the Committee of AJC, and the members of the AJC, in relation to Randwick Racecourse WYD event-related matters.

Proposed section 44H provides that the exercise by the Minister or the Authority, (or their delegates) of a function conferred or imposed on them by or under a provision of the proposed Part may not be:

- (a) challenged, reviewed, quashed or called into question before any court of law or administrative review body in any proceedings, or
- (b) restrained, removed or otherwise affected by any proceedings.

Proposed section 44I provides that a Randwick Racecourse Project Steering Committee may be established by regulation and have functions delegated to it.

Proposed section 44J provides that anything permitted, required, directed or authorised to be done by a person by or under the Principal Act to enable Randwick Racecourse to be used for the purpose of one or more World Youth Day events may be done despite any of the following:

- (a) the *Australian Jockey Club Act 1873* and any by-laws under that Act,
- (b) the *Thoroughbred Racing Act 1996* and any instrument under that Act,
- (c) the Australian Rules of Racing (within the meaning of the *Thoroughbred Racing Act 1996*).

Miscellaneous amendments

Schedule 1 [14] inserts proposed sections 46A–46F into the Principal Act.

Proposed section 46A deals with the control of aircraft within airspace over certain World Youth Day events.

Proposed section 46B controls certain unauthorised advertising material on buildings and structures, and enables a person authorised by the Authority to obliterate or remove that unauthorised advertising material at certain sites (as specified by the Minister by order in the Gazette).

Proposed section 46C deals with the control of advertising in airspace visible from certain World Youth Day venues or facilities.

Proposed section 46D provides that the State Emergency Service and the NSW Rural Fire Service may assist the Authority in the delivery of services for World Youth Day events, including (but not limited to) crowd management services and access control services for venues or facilities and traffic or pedestrian control.

Proposed section 46E implies certain terms into the service contracts for regular bus services under the *Passenger Transport Act 1990* to enable the Director-General of the Ministry of Transport to direct the bus operators to provide bus services for World Youth Day events.

Proposed section 46F provides that the operation of the Principal Act (and, in particular, any action of any person in compliance with proposed section 46B (which relates to the obliteration or removal of advertising material)) is not to be regarded as a breach of contract or confidence or otherwise as a civil wrong or giving rise to any remedy under any contract or other instrument.

Schedule 1 [15] replaces section 50 (Claims for compensation) of the Principal Act. This consequential amendment is made necessary by the inclusion of the specific compensation provisions relating to Randwick Racecourse in proposed section 44G.

Schedule 1 [16] inserts proposed section 51A into the Principal Act to provide that the Minister may delegate certain of the Minister's functions conferred or imposed by or under the Principal Act to specified authorised persons.

Schedule 1 [17] inserts proposed section 57A into the Principal Act to provide that the Authority may bring proceedings in the Supreme Court for an order to remedy or restrain a contravention (or a threatened or an apprehended contravention) of the Principal Act (including a direction under proposed section 44C or a condition of an authorisation under proposed section 44E) or certain agreements in connection with the use of Randwick Racecourse.

Schedule 1 [18] amends section 58 (Regulations) of the Principal Act to provide that regulations under that Act may be made in relation to searches of persons and their articles, vehicles or vessels as a condition of entry to any World Youth Day venue or facility and for excluding persons who refuse to submit to such searches from World Youth Day venues or facilities and, more generally, the use of Randwick Racecourse for World Youth Day events.

Schedule 2 Amendment of Passenger Transport Act 1990

Schedule 2 inserts proposed Part 10 (proposed clause 52) into Schedule 3 (Savings and transitional provisions) to the *Passenger Transport Act 1990*. The proposed clause makes it clear that the repeal of the Principal Act (on 1 January 2009 by section 62 of the Principal Act) does not affect the continued operation in relation to matters arising before that repeal of that Act of proposed sections 44H (Protection of exercise of certain functions) and 46E (Bus services for World Youth Day events) of that Act or any other exemption or immunity from, or limitation of, liability under that Act.