



NSW Legislative Council Hansard

Licensing and Registration (Uniform Procedures) Amendment (Photo ID) Bill

Extract from NSW Legislative Council Hansard and Papers Thursday 9 December 2004.

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [11.50 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Applying for a licence can be a complex and time consuming process. Application forms must be completed. Supporting documents and evidence must be gathered and provided. In some circumstances tests must be undertaken.

For a limited number of licences, an applicant must also provide an identification photograph. Having a photograph taken is an added time consuming burden. This Bill gives a licence applicant an option that reduces this "red tape".

The Legislation before us gives an applicant for certain specified licences the choice of reusing an existing photo held by the Roads and Traffic Authority—or attending a Motor Registry to have their photo taken.

Whichever choice an applicant makes, their photograph will be securely stored by the Roads and Traffic Authority. It will only be available to the licensing authority for very specific purposes set out in this bill.

The principal objectives of the bill are to:

- improve customer service by giving a licence applicant the choice of reusing an existing photograph on other licences
- improve the integrity and security of photograph identification issued by NSW licensing authorities—reducing opportunities for identity theft and fraud
- protect the privacy of a person who provides an identification photograph to a licensing authority; and
- enable more effective use of the Roads and Traffic Authority infrastructure and resources for taking and securely storing identification photographs.

The Licensing and Registration (Uniform Procedures) Act 2002 provides a framework for consistent administration of NSW government licences.

Parliament has already applied the Act to licences issued under twenty nine pieces of legislation.

The Act sets standard procedures for submitting and processing licence applications. It also sets standard procedures for licence administrators when they are determining an application—including the processes used to request information, the time periods for making a decision and notifying an applicant.

The Act gives licence applicants the right to have decisions reviewed by the Administrative Decisions Tribunal if a right of review is not already in place for a licence.

This Bill extends the Licensing and Registration (Uniform Procedures) Act to enable more effective administration of requirements for identification photographs.

The term licence in this speech is a generic one and includes registrations, certificates, permits and other related terms.

I would now like to turn to the detail of the bill.

The bill applies to licences listed in schedule 3A of the Licensing and Registration (Uniform Procedures) Act. Schedule 3A lists licences administered by the Commissioner for Fair Trading and WorkCover Authority. These licences are issued under:

- the Home Building Act 1989
- the Property, Stock and Business Agents Act 2002
- Chapter 9 of the Occupational Health and Safety Regulation 2001

- the Explosives Act 2003.

The bill does not require anybody to provide a photograph. Any requirement will continue to be through the legislation that establishes the licence.

The Commissioner for Fair Trading and WorkCover Authority can currently require a photograph for these licences under the relevant licensing legislation. This bill simply enables access to a photograph held by the Road and Traffic Authority if either of these licensing authorities decides to implement a requirement for a photograph.

Further licences can be added to Schedule 3A. Legislation establishing a licence can amend the schedule. This includes a Regulation, where the licence is established by a Regulation. This approach is flexible but also ensures appropriate scrutiny of a decision to use the service.

The Department of Commerce has identified more than 15 categories of licence or registration in NSW where a photograph is currently required. This is in addition to the photo required for a driver licence. The range is quite broad. It extends from surveyors registered with the Board of Surveying and Spatial Information through to the holder of a firearm licence.

Many occupations in the transport industry also require an identification photo - including tow truck drivers, taxi drivers and masters of commercial vessels. These licences can be added to Schedule 3A if this is considered appropriate after experience is gained with the initial licences.

The bill enables the Director-General of the Department of Commerce to enter into photo-access arrangements with the Roads and Traffic Authority and licensing authorities. The director-general can then provide an information technology service for licensing authorities that links to Roads and Traffic Authority and uses that existing infrastructure for taking and storing photographs.

This is similar to arrangements that are currently in place between the Commissioner of Police and the Roads and Traffic Authority for firearm licences and security industry licences.

The photo access arrangements with the Director-General will enable the Roads and Traffic Authority to:

- exchange information with a licensing authority to verify the identity of a person being photographed, or to correctly locate an existing photograph
- disclose a photograph to a licensing authority to assist in verifying the identity of a person making a licence application
- take and store a photograph of an applicant who chooses not to use an existing photograph
- provide a photograph to a licensing authority (either an existing photograph such as a driver licence—or one taken for the licence)
- receive fees as payment for the service.

The arrangements can also authorise a licensing authority to provide identification information to the Roads and Traffic Authority. This is necessary to ensure that the correct photograph is provided.

The Director-General of the Department of Commerce acts as an information and service broker, providing secure access to the Roads and Traffic Authority for licensing authorities and linking this to other information technology services for the production and management of licences. In some circumstances it may make good business sense to use private sector service providers—for example using a commercial data centre to store licence records, much in the same way that banks and financial institutions provide for secure services.

The bill makes it clear that the director-general must not enter into arrangements with a service provider unless he or she is satisfied that the arrangements protect privacy. The arrangements must make appropriate provision for compliance with relevant information protection principals in the Privacy and Personal Information Protection Act 1998.

Privacy and security have been key concerns in the development of this bill, and the Privacy Commissioner has been consulted through out its development.

The bill prevents a photograph from being stored or used except for the purpose of:

- reproducing the person's likeness on a licence or certificate
- helping to identifying a person making an application under the licensing legislation
- lawful investigations by the licensing authority
- the conduct of criminal proceedings under the licensing legislation or offences under the Crimes Act for false and misleading information
- when performing a function required for the photo access arrangements – such as verifying a person's identity or printing a licence.

The bill also places restrictions on the release of a photo. A photo can only be released:

- to the person shown in the photo
- if the release is provided for in another law
- for a lawful investigation by the licensing authority or for the conduct of criminal proceedings
- when performing a function required for the photo access arrangements.

Release of a photo for an investigation or for criminal proceedings must be done in accordance with any protocol approved by the Privacy Commissioner.

Sections 14 and 15 of the Privacy and Personal Information Protection Act give a person the right to access and correct personal information held by a public sector agency. The bill makes it clear that this right must be exercised through Roads and Traffic Authority rather than a licensing authority or the Department of Commerce. This will simplify administration and help to maintain the integrity of the photo database.

Schedule 2 of the bill amends Part 5 of the Roads Transport (Driver Licensing) Act. These amendments enable the Roads and Traffic Authority to participate in the photo access arrangements.

Existing privacy and security protections in part 5 of the Road Transport (Driver Licensing) Act will continue to apply to the driver licensing scheme. This bill complements those provisions by establishing protections when a Roads and Traffic Authority photo is used for another a type of licence.

The bill benefits people who provide an identification photo to a licensing authority. Their privacy is given increased protection. Their identity is protected and they can be assured that their personal information is stored securely. They have the option to reuse an existing photograph for other licences, reducing application times and red tape.

The community also benefits. Security features used for photograph licences will make forgery difficult. Fraud prevention will be improved.

Licensing authorities will have access to a secure service for managing photographs. Facilities at the Roads and Traffic Authority that currently are only available to the NSW Police Service will become available to other agencies. Compliance with privacy requirements will be simpler to achieve. Administration of licensing will be improved.

Honourable members may also be aware that the Photo Card Bill has been introduced into the Legislative Assembly. The Photo Card Bill includes consequential amendments to this bill. The Photo Card Bill will omit a provision that states that photo-access arrangements must afford a licence applicant a choice of providing an existing Roads and Traffic Authority [RTA] photo or having a new photo taken. The application process used for a licence makes this provision unnecessary. At the time of making an application applicants will be asked if they have a current drivers licence or photo card and will be given the choice of using the most recent photo held by the RTA or attending a motor registry and having a new photo taken.

Consequent amendments in the Photo Card Bill will modify section 80H to ensure that the RTA can keep and use photos under the Licensing and Registration (Uniform Procedures) Act 2002, the Road Transport (Driver Licensing) Act 1998 and the proposed Photo Card Bill. This change will ensure that a single photo can be used for any of the Acts. The Photo Card Bill will also amend section 80I, which deals with the release of photographs. The privacy protections in part 5 of the Road Transport (Driver Licensing) Act 1998 will be applied to all photos held by the RTA, irrespective of under which of the three Acts a photo was taken. The same privacy protections will apply to all photos. I commend the bill to the House.