

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [5.05 p.m.]: I move:

That this bill be now read a second time.

The Trustee Companies Amendment Bill 2009 will amend the Trustees Companies Act 1964 to facilitate the regulation of trustee companies by the Commonwealth and for other purposes. Currently, State and Territory legislation authorises trustee companies to administer deceased estates, something that historically only a person could do. Trustee companies also provide other traditional trustee company services, such as acting as a trustee for other estates, or under a power of attorney granted to the trustee company. In 2008 the Council of Australian Governments [COAG] agreed that the Commonwealth would assume responsibility for the regulation of trustee companies and that the necessary legislation for this would be in place by the end of 2009. In October 2009 the Commonwealth Parliament passed the Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009, which provides for Commonwealth regulation of trustee companies. Under this legislation there will be a single licensing and reporting regime for trustee companies administered by a single regulator—the Australian Securities and Investments Commission.

Trustee companies will be required to have a trustee company Australian financial services licence. There will be many benefits from the single national regulatory scheme. It will eliminate the unnecessary regulatory burden on trustee companies arising from duplicate licensing and reporting requirements in each State and Territory, removing barriers to entry and improving competition in the trustee company market. It will also apply the consumer protection regime for financial services from the Corporations Act to trustee companies, which will have to comply with the conduct, disclosure, advice, dispute resolution and compensation requirements of that Act. This will provide better consumer protection and access to a more cost-effective and timely alternative dispute resolution mechanism.

The Trustee Companies Amendment Bill 2009 will ensure a smooth transition to Commonwealth regulation of trustee companies and ensure that New South Wales meets its obligations under the COAG agreement. The bill will amend the Trustee Companies Act 1964 so that companies will no longer be authorised to be trustee companies by being listed in a schedule to that Act. Instead, the Act will recognise licensed trustee companies under chapter 5D of the Commonwealth's Corporations Act 2001. The bill also repeals sections of the Trustee Companies Act 1964 that will be unnecessary or inconsistent when Commonwealth regulation takes effect. In particular, the bill will repeal provisions relating to: the fees that may be charged by trustee companies; the provision of accounts by trustee companies; the duties of officers and employees of trustee companies; restrictions on the ownership or control of trustee companies; the provision of company financial statements to the Government; and minimum capital requirements, indemnity insurance and common funds.

The Trustee Companies Amendment Bill 2009 also facilitates the transfer of a trustee company's business to another licensed trustee company if its licence is cancelled. The bill also amends the Trustee Companies Regulation 2005 to prescribe certain matters in relation to the filing of elections to administer small deceased estates. Most of the provisions of the Trustee Companies Amendment Bill 2009 will commence on proclamation and the intention is to commence them when the relevant provisions of the Commonwealth Act are commenced.

I understand that the Commonwealth is currently aiming to commence its provisions on 1 January 2010. This bill will facilitate the transition to a single licensing and reporting regime administered by a single national regulator. This will avoid unnecessary duplication in licensing and reporting and remove barriers to entry, benefiting trustee companies, companies wishing to enter the trustee company market, and consumers. Consumers will benefit also from enhanced consumer protection, which includes disclosure requirements and an external dispute resolution scheme. I commend the bill to the House.