



## NSW Legislative Assembly Hansard

### Statute Law (Miscellaneous Provisions) Bill (No. 2)

Extract from NSW Legislative Assembly Hansard and Papers Tuesday 14 November 2006.

#### Second Reading

**Mr PAUL McLEAY** (Heathcote—Parliamentary Secretary) [12.53 a.m.]: I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No. 2) continues the well-established statute law revision program that is recognised by all members as a cost-effective and efficient method for dealing with minor amendments. The form of the bill is similar to that of previous bills in the statute law revision program. This session the bill includes an additional schedule to deal specifically with statute law revision amendments consequential on the enactment of the Legal Profession Act 2004. Schedule 1 contains policy changes of a minor and non-controversial nature that the responsible Minister considers do not warrant the introduction of a separate amending bill. That schedule contains amendments to 34 Acts.

I will mention some of the amendments to give honourable members an indication of the kind of amendments that are included in the schedule. Schedule 1 amends the Conveyancing Act 1919 to permit plans or other documents lodged with the Registrar-General under that Act to be kept in any medium or combination of media ensuring the registrar can deal with plans in hard copy and electronically. That Act is also amended to permit the Registrar-General to refuse to register a plan that has been executed under a power of attorney unless the power of attorney is also registered. A similar amendment is made to the Real Property Act 1900.

Other amendments made by schedule 1 are to the Western Lands Act 1901 to provide that a person is not disqualified from office as the Western Lands Commissioner or Assistant Commissioner merely because the person has an interest in freehold land in the Western Division. This is appropriate because the commissioner does not have powers to deal with freehold land. The amendments will also allow the Minister for Natural Resources to resolve urgent title issues over special easements over land within the Western Division that are being used as a road or track instead of having to request that the Registrar-General do so.

Schedule 1 also amends the Royal Commissions Act 1923 and the Special Commissions of Inquiry Act 1983 to update the offences of giving false testimony before a royal commission or special commission of inquiry. The updated provisions bring these Acts into line with the offences of giving false and misleading testimony found in the Independent Commission Against Corruption Act 1988 and the Police Integrity Commission Act 1996. The updated provisions also apply sections 331 and 332 of the Crimes Act 1900, which remove some technical defences. Section 331 provides that where a person has made two irreconcilable statements a jury is not required to know which statement is untrue to find the person guilty of the offence. Section 332 provides that an accused person cannot rely on a technical defect in an instrument to prevent it being used in evidence at his or her trial.

Another amendment made by schedule 1 is to the Petroleum (Onshore) Act 1991. This will remove an anomaly whereby an application for development consent to the use of land for the purpose of obtaining petroleum does not require the consent of the owner of the land, but an application for a modification of any such development application may require the landowner's consent. Consistent with existing policy, the amendment makes it clear that the consent of the landowner is not required in either case, despite the provisions of the Environmental Planning and Assessment Act 1979.

The Food Act 2003 is also amended to clarify that regulations can be made to allow a person to make an application to the Administrative Decisions Tribunal for a review of any decision under the Act. Currently regulations provide for such an application but may be outside the scope of the Act. This amendment is intended to clarify and confirm these rights. The concurrence of the Attorney General will be required to the making of any new regulations. Other amendments are made by schedule 1 to the Sydney Opera House Trust Act 1961. These amendments clarify the land and buildings to which the Act applies. Amendments also permit the Sydney Opera House Trust to operate more than one bank account. This is necessary as fundraising legislation around Australia often requires money raised through a fundraising appeal to be paid into a separate bank account. Finally, this Act is also amended to provide for the disclosure of pecuniary interests by members of the trust.

The amendments to the Museum of Applied Arts and Sciences Act 1945, the Library Act 1939, the Historic Houses Act 1980 and the Australian Museum Trust Act 1975 also provide for the disclosure of pecuniary interests by trustees or members of the trust or council established by each of those Acts. Schedule 1 also amends the Commission for Children and Young People Amendment Act 2005, which inserted a new section

33C into the Commission for Children and Young People Act 1998. That section prevents a prohibited person from applying for child-related employment. The proposed amendment clarifies that the new offence will also prevent a self-employed prohibited person seeking such employment.

The Protection of the Environment Operations Act 1997 is also amended by schedule 1. These amendments provide that the biennial report of the Environment Protection Authority on littering is to contain estimates of the composition and quantity of litter. They also provide that when an authorised officer requires a person to take a vehicle to a place to be tested for compliance with the Act it is not an offence to drive the vehicle to that place. They allow a court to order an offender to pay any specified organisation an amount for environmental purposes. Currently, such payment can be made only to a specified "environmental" organisation.

Schedule 2 deals with matters of pure statute law revision that the Parliamentary Counsel considers are appropriate for inclusion—for example, amendments arising out of the enactment or repeal of other legislation, those correcting duplicated numbering and those updating terminology. Schedule 3 contains statute law revision amendments that are consequential upon the enactment of the Legal Profession Act 2004. They include standardising terms used in other Acts and updating references to the Legal Profession Act 1987, now repealed. Schedule 4 repeals a number of Acts and provisions of Acts. Schedule 5 contains general savings, transitional and other provisions.

The various amendments are explained in detail in explanatory notes set out beneath the amendments to each of the Acts and statutory instruments concerned or at the beginning of the relevant schedule. 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 raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. I commend the bill to the House.