



# Legislative Assembly

## Statute Law (Miscellaneous Provisions) Bill Hansard

### Extract

19/06/2002

#### Second Reading

**Ms NORI** (Port Jackson—Minister for Small Business, and Minister for Tourism), on behalf of Mr Whelan [11.58 a.m.]: I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill continues the well-established statute law revision program that is recognised by all members as a cost-effective and efficient method of dealing with amendments of the kind included in the bill. The form of the bill is similar to that of previous bills in the statute law revision program. Schedule 1 contains amendments arising from policy changes of a minor and non-controversial nature that the Minister responsible for the legislation to be amended considers to be too inconsequential to warrant the introduction of a separate amending bill. The schedule contains amendments to 28 Acts. I will mention some of them to give honourable members an indication of the kinds of amendments that are included in the schedule.

Schedule 1 amends the Children and Young Persons (Care and Protection) Act 1998 in a number of respects. Many of the amendments are made to ensure consistency of terminology or consistency with other provisions of the Act, or to clarify the meaning of a term. Another amendment to that Act relates to the grounds on which the Children's Court may take a care order in respect of a child or young person. That amendment makes it clear that the court may do so, if the child or young person is deemed, under section 171 of the Act, to be in need of care and protection. This can occur if the child or young person is still living in unauthorised out-of-home care despite a request from the Director-General of the Department of Community Services that the child or young person be removed from that care.

Schedule 1 also amends the Conveyancing Act 1919 in relation to distress for rent—that is, the practice of a landlord seizing the goods of a tenant whose rent is in arrears. That practice was abolished by the Landlord and Tenant Amendment (Distress Abolition) Act 1930, which also preserved the general right of a person to whom rent is owed to recover the rent by court action. The amendments to the Conveyancing Act preserve the effect of the Landlord and Tenant Amendment (Distress Abolition) Act 1930 and so permit the repeal of that Act by schedule 3. Schedule 1 also amends the Dental Practice Act 2001. The amendment provides that persons elected as members of the Dental Board constituted by the Dentists Act 1989 at the election that is required to be held in July 2002 under that Act are to serve the balance of their terms, unless sooner removed by the Governor, as members of the Dental Board constituted by the Dental Practice Act 2001.

That Act is proposed to commence some time after July this year. The amendment will remove the necessity to conduct another election—an election under the 2001 Act—shortly after the July election. Schedule 1 also amends the Mines Inspection Act 1901 to permit the Chief Inspector of Mines to delegate his or her functions under the Act to any inspector of mines. At present, the delegation can be made only to the Deputy Chief Inspector of Mines or senior inspectors of mines. Schedule 1 also amends the Pesticides Act 1999 to repeal a provision that provides that it is a defence to a prosecution for the alleged offence of using a pesticide in contravention of an approved label for the pesticide if the accused establishes that he or she did not contravene the relevant instructions on any other approved label for the pesticide.

The amendments will ensure that any more stringent requirements imposed by a second or subsequent approved label for a pesticide can be enforced. However, they do not affect the defence afforded to an accused who establishes that he or she complied with the requirements of the approved label appearing on the pesticide container that was actually used in the commission of the alleged offence. Schedule 1 also amends the Public Authority (Financial Arrangements) Act 1987 so as to ensure that statutory State-owned corporations may obtain the benefit of a statutory guarantee under section 22A of the Act. The amendment provides consistency with the position of company State-owned corporations in relation to the statutory guarantee.

The last schedule 1 amendments that I will mention are to the Sydney Water Catchment Management Act 1998. They provide for an additional member of the Sydney Water Catchment Authority Board, to be an elected councillor, selected by the Minister, of a local government area within the catchment area. The amendments will also make it clear that the requirement that the Minister advertise publicly for nominations for appointment to the board extends to apply in respect of the appointment of a person, such as the additional member, who is not required to be the nominee of any specific body.

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the 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 updating references to

the names of bodies and offices and those correcting numbering. Schedule 3 repeals a number of Acts and statutory rules. The schedule repeals amending Acts enacted in 2000 or earlier that contain no substantive provisions that need to be retained. The schedule also repeals amending Acts when the reprints of relevant principal Acts incorporate the amendments made by those Acts.

The Acts that were amended by the Acts being repealed are up to date on the legislation database that is maintained by the Parliamentary Counsel's office and are available electronically. The schedule also repeals Acts that are no longer of practical utility. A special mention might be made of one such Act. The Women's Legal Status Act 1918 was introduced at the end of the first World War to provide, in the words of its long title, "that women shall not by reason of sex be deemed to be under any disqualification to hold certain positions or to practise certain professions". It is notable that, while both the long and the short titles of the Act refer to "women", the substantive provisions of the Act refer to "a person". The section as currently in force states:

A person shall not by reason of sex be deemed to be under any disability or subject to any disqualification:

- (a) to be elected and to act as a member of the Legislative Assembly,
- (b) to be elected and to act as lord mayor or councillor of the City of Sydney or mayor or councillor of any other area within the meaning of the Local Government Act 1993,
- (c) to be appointed a judge of the Supreme Court of New South Wales, or of a district court of New South Wales, or chairman of quarter sessions, or a stipendiary or police magistrate, or a justice of the peace,
- (d) to be admitted and to practise as a barrister or solicitor of the Supreme Court of New South Wales or to practise as a conveyancer,

any law or usage to the contrary notwithstanding.

The Act has been amended only twice since its enactment. The first amendment was made in consequence of the enactment of the Local Government Act 1993. The second amendment has not yet commenced—it is part of a general housekeeping exercise that will remove obsolete references to stipendiary magistrates from the statute book. While the Women's Legal Status Act was a landmark in its time, it has been superseded by subsequent legislation and is now of no practical utility. Schedule 4 contains provisions dealing with the effect of amendments on amending provisions, savings clauses for the repealed Acts and a power to make regulations for savings and transitional matters, if necessary. I commend the bill to the House.