

Legislative Council Hansard – 18 October 2017 – Proof

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2017*First Reading*

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.

Second Reading

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (18:03): I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No 2) 2017 continues the statute law revision program, which has been in place for more than 30 years. Bills of this kind have featured in most sessions of Parliament since 1984 and are an effective method for making minor policy changes and maintaining the quality of the New South Wales statute book. Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a separate amending bill. It contains amendments to 22 Acts and related amendments to one instrument.

I will give an outline of some of the amendments that are included in this schedule. Schedule 1 makes various amendments to the Ombudsman Act 1974. One of these amendments will facilitate the role of the Ombudsman in dealing with complaints received through the Government's centralised online complaints management system. The amendment will enable the Ombudsman to refer an online complaint made by a member of the public to the public authority responsible for dealing with the complaint. This referral support will assist agencies when they receive misdirected complaints relating to other agencies and it is not clear which agency has responsibility for dealing with the complaint.

Another amendment made to that Act provides that a Deputy Ombudsman or an Assistant Ombudsman may resign by instrument in writing to the Ombudsman. This will remove an inconsistency between provisions of the Act that require the instrument of resignation to be given to either the Governor or the Minister. The amendments also enable the Ombudsman to inform a complainant orally of a decision to refuse to conciliate or investigate a complaint, or to discontinue an investigation. Currently, written notification of the decision is required. The new arrangements will apply if the complaint was made in writing and the complainant consents to being informed orally.

Finally, the amendments to that Act will enable the head of a government or non-government agency to delegate to an employee of the agency the function of notifying the Ombudsman of child abuse allegations or convictions against employees of the agency. Schedule 1 also includes amendments to the Combat Sports Act 2013 to extend the term of registration of a combatant, industry participant or promoter who applies again for registration under that Act in the same class as the existing registration. The extension will apply only until the new application for registration is determined. At present, the term of registration of a combatant, industry participant or promoter expires three years after registration is granted.

In addition, a number of amendments are made to the National Parks and Wildlife Act 1974. These include amendments dissolving the Audit and Compliance Committee established under that Act. The functions of that Committee have been substantially superseded by the functions of the Audit and Risk Committee established for the Office of Environment and Heritage in accordance with Treasury's internal audit and risk management policy for the New South Wales public sector. The amendments also enable any Public Service employee who is authorised by the Chief Executive of the Office of Environment and Heritage to institute proceedings for an offence under the Act in the Land and Environment Court in its summary jurisdiction. Currently, those proceedings may be instituted only by the Chief Executive or any other officer of the National Parks and Wildlife Service authorised by the Chief Executive.

Amendments are made by Schedule 1 to a provision of the Residential Tenancies Act 2010 setting out certain matters to be considered by the Civil and Administrative Tribunal in deciding whether to make a termination order for a social housing tenancy agreement. The matters currently required to be considered include whether the tenant has been in breach of an order of the tribunal under the Act. The amendments will ensure that the tribunal is required to consider those matters only when deciding whether to make a termination order on the ground of a breach by the tenant—and not on other grounds such as where the tenant is no longer eligible for social housing. The amendments also make it clear that those matters are not required to be considered by the tribunal if the termination order is made on the application of the landlord and the tribunal is required under the Act to make the order.

The last Schedule 1 matter I will mention is the amendment to the University of Technology Sydney Act 1989. The amendment will enable the Vice-Chancellor of the University of Technology Sydney to subdelegate to certain persons and bodies functions delegated to the Vice-Chancellor by the Council of the University. Subdelegation will only be enabled if the delegation from the council includes a power to subdelegate.

Subdelegation will only be enabled if the delegation from the council includes a power to subdelegate. The subdelegation is also subject to any condition to which the delegation is subject.

Schedule 2 makes amendments to various Acts to enable the online publication of government notices. Currently, these notices are required to be published in newspapers or other print media. Schedule 3 makes amendments to the provisions of various Acts providing for the issue of penalty notices consequent on the enactment of the Fines Amendment (Electronic Penalty Notices) Act 2016. That Act amended the Fines Act 1996 to consolidate and standardise provisions relating to penalty notices. In particular, the Act transferred to the Fines Act 1996 the substance of provisions found in specific sections of other Acts providing for the issue of penalty notices. The amendments made by Schedule 3 will remove provisions that are now duplicated in the Fines Act 1996.

Schedule 4 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 4 are corrections of cross-references, typographical errors and terminology, and amendments arising out of the enactment of other legislation. Schedule 5 continues the program of repealing Acts and instruments that are redundant or of no practical utility. Schedule 6 contains general savings, transitional and other provisions. These include provisions dealing with the effect of amendments on amending provisions, and savings clauses for the substituted provisions.

The various amendments are explained in detail in explanatory notes set out at the beginning of the bill beneath the amendments to each of the Acts and statutory instruments concerned are at the beginning of the schedule concerned. I am sure that members will appreciate the straightforward and non-controversial nature of the provisions contained in the bill. However, if any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for government staff 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. Withdrawn proposals can also be dealt with in a second bill by using the procedure for splitting bills in the Legislative Council, which can be dealt with in each of the Houses in the same way as an ordinary bill. I commend the bill to the House.

Debate adjourned.