



Legislative Assembly

Justices Of The Peace Bill Hansard

Extract

28/05/2002

Second Reading

Mr DEBUS (Blue Mountains—Attorney General, Minister for the Environment, Minister for Emergency Services, and Minister Assisting the Premier on the Arts) [8.24 p.m.]: I move:

That this bill be now read a second time.

The method of appointment and regulation of the office of Justice of the Peace in New South Wales has remained relatively unchanged since the late nineteenth century. Presently, justices of the peace are appointed for an indefinite term on an ad hoc basis by me as the New South Wales Attorney General, often to fulfil the requirement of a particular job or community need. It is estimated that currently there are between 100,000 and 200,000 justices of the peace in New South Wales. This number is only an estimate because records of justices of the peace appointed prior to the introduction of the current record-keeping system in 1992 are not complete. A discussion paper released in February 1998 by the Attorney General's Department concerning the role of Justices of the Peace proposed legislative reforms. The draft Justices of the Peace Exposure Bill 2001 was developed in light of the many submissions received, the majority of which supported the proposals outlined in the paper.

On 20 September 2001 I tabled in Parliament a draft exposure bill, in conjunction with the Justices Act reform package, the reform package affecting the Local Court of New South Wales. Under the reform package, which will commence operation at the end of this year, all court duties formerly performed by court staff as justices of the peace will be performed by those officers in their roles as registrars or deputy registrars. The key features of the bill are that lifetime appointments will be abolished and replaced with five-year renewable terms; a public registry will be established to improve access to justices' services; the functions of community justices of the peace will be clearly defined; the Governor may remove a justice of the peace from office at any time, including for bankruptcy, mental incompetence, or criminal convictions; and the proposal to introduce an administration fee has been removed. I shall deal with each of these matters in turn.

The bill provides that appointments to the office will be limited to five years. After five years the appointment will lapse. Prior to the appointment lapsing, justices of the peace can apply for a renewal of the appointment by demonstrating that they continue to meet the eligibility requirements. Existing justices of the peace will have a grace period of three years from the commencement of the legislation to apply for a new commission, before their current commission expires. Limiting the term of appointment will ensure that records are accurate and that current justices of the peace are eligible to continue performing the functions of the office. The majority of justice of the peace respondents during the consultation process had no objection to this proposal. Dates for making recommendations to the Attorney General and appointments by the Attorney General will be scheduled at six-monthly intervals, except for cases where urgency can be demonstrated.

The current system of nomination by members of Parliament is retained. The regulations and guidelines will prescribe the criteria for appointment as a justice of the peace and will reflect the current criteria with the exception of the age restrictions. The Anti-Discrimination Board advises that the current 21 to 75 year age range is discriminatory on the basis of age. The eligibility requirement will be changed to a lower limit of 18 years or over, and will be renewable whilst the appointee continues to meet the eligibility criteria and is capable of carrying out the inherent requirements of the position. Despite the large number of justices of the peace in New South Wales—there are approximately 3,000 new commissions each year—it is a common complaint that members of the public cannot locate a justice of the peace as there is no formal mechanism to put members of the public in direct contact with one. The department has not provided contact details to the public as this would require the informed consent of each justice of the peace. Under the bill it will be a condition of appointment and continuation in the office that justices of the peace consent to the publication of nominated contact details in a public register in accordance with the Privacy and Personal Information Protection Act 1998. The contact address may be a business address.

The public register would be available for public inspection at locations nominated by the department. Section 58 (2) of the Privacy and Personal Information Protection Act 1998 provides for the suppression of information where the safety or wellbeing of any person would be affected. Some submissions indicated concern about providing private residential details. Section 58 (2) combined with the option of supplying a nominated business address rather than a residential address would provide sufficient protection. Advice sought from Privacy New South Wales indicated that it had no objections to the bill in its current form. The public register will enable the community to ascertain the whereabouts of a convenient justice of the peace, and can be used to identify whether there are sufficient justices of the peace available in particular localities to meet community needs.

The repeal of the Justices Act 1902, which is proposed to commence on 1 January 2003, means that the functions of justices of the peace need to be defined. The duties once performed by court staff as authorised justices or justices of the peace employed by the Attorney General's Department will now be performed by registrars of the Local Court. The functions of community justices of the peace will be limited to administering oaths, affirmations

and declarations, principally under the Oaths Act 1900. Strict guidelines for correct attestation of documents clearly identifying the justice of the peace will be made under the legislation. Presently, a justice of the peace's appointment can be revoked by the Governor where the justice of the peace is convicted of an offence or where the justice of the peace engages in conduct which is unbecoming to the office, for example, by being made bankrupt. The bill will provide that the Governor may remove a justice of the peace from office at any time, including for bankruptcy or insolvency, mental incapacity or conviction of certain offences or on other grounds specified in the regulations.

Justices of the peace will be obliged to notify the Attorney General of any matter that may cause them to cease to satisfy the eligibility requirements or which may satisfy these grounds for being removed from office. The requirement for justices of the peace to advise the Attorney General's Department of their continued eligibility and to renew their commission will provide a better system for supervision of the office. Each matter will continue to be considered on its merits and the justice of the peace will be given an opportunity to show cause as to why his or her appointment should not be revoked. Justices of the peace who fail to apply for renewal of their commission at the expiration of the five-year term will cease to hold office.

As the focus of concern in relation to the exposure draft bill was in relation to the introduction of a registration fee, it is proposed that there will be no new administrative fee. A standard certificate notifying applicants of their registration number will be supplied to all justices of the peace. However, it will be open to justices of the peace to also purchase an official decorative certificate, if they so desire. Given that many justices of the peace have not kept their addresses up to date, any attempt to individually notify justices of the peace of these proposed changes will be extremely difficult. An advertising campaign will be launched to bring the new requirements to the attention of justices of the peace and a dedicated phone line will be established for 12 months to enable the Attorney General's Department to respond to inquiries from justices of the peace. I commend the bill to the House.