



Judicial Officers Amendment Bill 2007

Judicial Officers Amendment Bill 2007

Extract from NSW Legislative Council Hansard and Papers Thursday 28 June 2007.

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [4.19 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Earlier this year the Government announced the introduction of amendments to the Judicial Officers Act 1986 to enable the appointment of two community representatives, one of whom will sit on each inquiry by a Conduct Division into judicial misconduct. The Judicial Officers Amendment Bill 2007 gives effect to the Government's commitment in the most open way possible, by providing that the two community representatives will be nominated by Parliament. The amendment will ensure greater transparency and accountability in the process for dealing with complaints and matters involving the impairment of judicial officers.

Under part 6 of the Judicial Officers Act any person may complain to the Judicial Commission about matters that concern or may concern the ability or behaviour of a judicial officer. As an initial step the commission conducts a preliminary examination of a complaint received. If the commission does not dismiss a complaint or refer it to the head of jurisdiction it must be referred to a Conduct Division for further investigation. A Conduct Division is currently constituted by a panel of three serving judicial officers, or two serving judicial officers and a retired judicial officer. A separate Conduct Division is established for each complaint referred by the Judicial Commission.

Under the proposed amendments a community representative will replace one of the judicial officer positions on the Conduct Division. Community representatives will be nominated by resolution of the Legislative Assembly, with the concurrence of the Legislative Council. Where the Legislative Council rejects a nomination by the lower House, it may nominate another person as a community representative. If, in turn, the Assembly rejects the upper House nomination or it fails to offer an alternative nomination within three sitting days, the Assembly may insist on its original nomination, in which case the nominee is confirmed, or nominate another person as a community representative, whereupon the original nomination process resumes. Community representatives nominated by Parliament must be people of high standing in the community. To ensure that a different perspective is brought to bear on judicial misconduct matters, people who are legally qualified or members of the Judicial Commission will be barred from being nominated. The community representatives will sit on a Conduct Division on a rotating basis, subject to their availability for appointment on the occasion concerned. The bill makes provision for the expiry of a nomination, including where the person resigns, becomes legally qualified, is replaced by Parliament, or following a State election.

The proposed reform builds upon recent changes to the Judicial Officers Act introduced by the Government. Those reforms updated and streamlined complaints

handling by the Judicial Commission and provided for mechanisms to deal with a judicial officer who may be suffering an impairment. This amendment will strengthen public confidence in the process for dealing with complaints relating to judicial officers and in our legal system. The Government has consulted the Chief Justice, the Hon. Mr Justice Spigelman, AC, who is also the chairperson of the Judicial Commission, regarding the proposed amendments to the Act. I commend the bill to the House.