

## Second Reading

**The Hon. PENNY SHARPE** (Parliamentary Secretary) [11.45 a.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.

The purpose of the Courts and Other Legislation Amendment Bill 2009 is to make miscellaneous amendments to courts-related legislation and other legislation.

The bill is part of the Government's regular legislative review and monitoring program.

The bill will amend a number of Acts to improve the efficiency and operation of the courts and tribunals.

The bill will also make minor amendments to a number of Acts relating to statutory bodies within the Attorney General's portfolio.

I will now outline each of the amendments in turn.

#### Administrative Decisions Tribunal Act 1997Administrative Decisions Tribunal Act 1997

Item 1.1 in schedule 1 of the bill amends section 113 of the Administrative Decisions Tribunal Act 1997 in response to a recent Court of Appeal decision. That decision is *Avilion Group Pty Ltd v Commissioner of Police*, [2009] NSWCA 93.

The amendment is intended to put beyond doubt that an Appeal Panel of the Tribunal, constituted by a single presidential judicial member, may deal with both an application for leave to appeal against an interlocutory decision of the Tribunal and the appeal if leave is granted.

A decision made by the President alone will be dealt with by a full Appeal Panel.

The amendments reaffirm the original intention of section 113, and will enable the Tribunal to save on the cost of three member Appeal Panels and improve the timeliness of decisions on such appeals.

The amendments are supported by the President of the Tribunal.

#### Anti-Discrimination Act 1977Anti-Discrimination Act 1977

Item 1.2 of schedule 1 of the bill amends the Anti-Discrimination Act 1977 to enable the Anti-Discrimination Board to give access to information obtained under the Act to academics and other people for research purposes and other similar purposes.

The amendments will also extend the secrecy provisions of the Act to people who have been provided with information by the Board for research purposes.

In addition to the protections offered by the secrecy provisions of the Act, the Privacy and Personal Information Protection Act 1998 will also continue to apply to the Board.

The amendments will enable the Board to contribute to and collaborate on research being done in the area of discrimination. This is likely to have public benefits.

The amendments have the strong support of the President of the Board.

#### Children (Criminal Proceedings) Act 1987 and Crimes (Sentencing Procedure) Act 1999Children (Criminal Proceedings) Act 1987 and Crimes (Sentencing Procedure) Act 1999

I will now deal with item 1.3 and item 1.5 together, which amend, respectively, the provisions relating to the non-association and place restriction orders contained in the Children (Criminal Proceedings) Act 1987 and the Crimes (Sentencing Procedure) Act 1999.

These amendments implement the recommendations made by the Ombudsman in his Report reviewing the Justice Legislation Amendment (Non-association and Place Restriction) Act 2001, which was tabled in Parliament on 4 December last year.

The Ombudsman recommended that Parliament consider amending the relevant legislation to address the apparent need for flexibility when imposing non-association and place restriction orders at sentencing.

I thank the Ombudsman for his detailed and thorough review of the non-association and place restriction provisions contained in the report, and am pleased to implement all the legislative recommendations made via this bill.

Item 1.5 of schedule 1 amends the non-association and place restriction orders contained in the Crimes (Sentencing Procedure) Act 1999.

Section 17A sub-section (3) (a) deals with non-association orders. This section is amended to give the court the power to make a limited non-association order. An offender can now be prohibited from being in company with a specified person at certain times or in such circumstances as the court sees fit. For instance, the court could now make a non-association order prohibiting the offender from being in company with a specified person, apart from the time they attended a drug rehabilitation centre.

A new sub-section (3A) is also to be inserted. It allows the court to make a limited place restriction order prohibiting the offender from frequenting or visiting a specified place or district except at the times or in such circumstances as are specified. For example, the court could now make a place restriction order prohibiting an offender from frequenting or visiting a shopping district, except when in the company of a parent.

These new amendments directly implement the recommendations made by the Ombudsman in his report and give the courts increased flexibility to tailor orders on a case-by-case basis.

Section 100A of the Crimes (Sentencing Procedure) Act 1999 is amended to allow a court to make a non-association order specifying a member of the offender's close family. Such an order is to be made in exceptional circumstances having regard to the ongoing nature and pattern of criminal activity in which the family member and the offender have both participated. The court must be satisfied that there is risk that the offender may be involved in conduct that could involve the commission of a further offence of the kind to which section 17 A applies if the offender associates with that family member. This amendment is a direct result of a recommendation made by the Ombudsman that the Act allow more flexibility to target familial connections in organised criminal activities. Importantly, the court will also have to give reasons for specifying a close family member in a non-association order.

This section is also amended to allow a court to specify a place or district formally restricted from forming part of the order if the court considers exceptional circumstances exist. The court must be satisfied, having regard to the ongoing nature and pattern of participation of the offender in criminal activity occurring at that place or district, that there is risk that the offender may be involved in conduct that could involve the commission of a further offence of the kind to which section 17 A applies. Again, the court will have to give reasons for specifying this place or district when making these orders.

Section 100A is further amended to now prohibit the court from making a place restriction order in relation to a place at which the offender regularly receives a health service, welfare service, or is regularly provided with legal services by an Australian legal practitioner.

Lastly, this bill amends the definition of close family to include persons who are, or have been, part of the extended family or kin of an offender who is an Aboriginal person or Torres Strait Islander.

Item 1.3 amends the corresponding provisions relating to juveniles so that section 33D of the Children (Criminal Proceedings) Act 1987 is consistent with section 17 A of the Crimes (Sentencing Procedure) Act 1999.

These are important amendments flowing directly from the Ombudsman's Report. They will operate to ensure that the community is protected from further crime occurring by breaking down criminal associations and preventing offenders from frequenting their favourite criminal haunts, as well as, importantly, assisting in the rehabilitation of offenders.

Civil Procedure Act 2005 Civil Procedure Act 2005

Item 1.4 of schedule 1 of the bill amends section 122 of the Civil Procedure Act 2005 to provide that a garnishee order cannot reduce a debtor's net weekly wage or salary to below the full amount of the standard workers compensation weekly benefit. This amount is currently \$381.40.

As it currently stands, section 122 provides that a garnishee order cannot reduce a debtor's net weekly wage or salary to below 80 per cent of the standard workers compensation weekly benefit.

The increase in the protected amount of wages and salary will reduce the financial hardship for people whose wages or salary are deducted as part of a court order to pay a debt.

It is important that a person still has enough money to pay for the necessities of life when they are paying off a debt.

This amendment has the support of the New South Wales Consumer Credit Legal Centre.

Law Enforcement (Powers and Responsibilities) Act 2002 Law Enforcement (Powers and Responsibilities) Act 2002

Item 1.6 of schedule 1 of the bill amends sections 62 and 66 of the Law Enforcement (Powers and Responsibilities) Act 2002 to remove ambiguity in the language in those sections.

These are minor clarifying amendments.

Law Reform Commission Act 1967 Law Reform Commission Act 1967

Item 1.7 of schedule 1 of the bill amends section 13 of the Law Reform Commission Act 1967 to enable Law Reform Commission reports to be tabled when Parliament is not sitting by presenting copies of reports to the Clerk of each

House.

This will reduce delays in the tabling of Law Reform Commission reports, as the Attorney General will not have to wait until Parliament is sitting in order to table reports.

Local Court Act 2007Local Court Act 2007

Item 1.8 of schedule 1 of the bill amends the Local Court Act 2007 to make it clear that a Registrar of the Local Court can exercise functions in respect of one or more designated places in the State or in respect of any place in the State.

The relevant provisions in the Local Court Act 2007 are intended to provide for more flexible arrangements for administering the Local Court.

Advice received from the Crown Solicitor has cast some doubt as to whether these provisions achieve their intended outcome. The amendments are made in response to the Crown Solicitor's advice.

Mining Act 1992Mining Act 1992

Item 1.9 of schedule 1 of the bill makes a minor amendment to the Mining Act 1992 to update a section reference in the Act.

This bill addresses a number of issues relating to the smooth and effective running of courts and tribunals in New South Wales.

The bill also contains amendments relating to a number of statutory bodies within the Attorney General's portfolio.

The amendments contained in the bill have been the subject of thorough consultation with key stakeholders.

I commend the bill to the House.